

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE YVONNE GONZALEZ ROGERS, JUDGE

CIARA NEWTON,)	
)	
PLAINTIFF,)	NO. C-17-3961 YGR
)	
VS.)	WEDNESDAY, DECEMBER 12, 2018
)	
EQUILON ENTERPRISES LLC DBA)	OAKLAND, CALIFORNIA
SHELL OIL PRODUCTS,)	
)	
)	JURY TRIAL
DEFENDANT.)	
_____)	

REPORTER'S TRANSCRIPT OF PROCEEDINGS

APPEARANCES:

FOR PLAINTIFF:

MINNIS & SMALLETS LLP
369 PINE STREET, SUITE 500
SAN FRANCISCO, CALIFORNIA 94104
BY: SONYA L. SMALLETS, ESQUIRE
EVEN R. ETTHINGHOFF, ESQUIRE

DICKSON GEESMAN LLP
1999 HARRISON STREET, SUITE 1945
OAKLAND, CALIFORNIA 94612
BY: EMILY A. NUGENT, ESQUIRE

FOR DEFENDANT:

LAFAYETTE & KUMAGAI LLP
1300 CLAY STREET, SUITE 810
OAKLAND, CALIFORNIA 94612
BY: GARY T. LAFAYETTE, ESQUIRE
BARBARA L. LYONS, ESQUIRE

REPORTED BY:

DIANE E. SKILLMAN, CSR 4909, RPR, FCRR
OFFICIAL COURT REPORTER

I N D E X

PLAINTIFF'S WITNESSES:**PAGE****VOL.****NEWTON, CIARA**

DIRECT EXAMINATION BY MS. SMALLETS (RESUMED) 429 3

CROSS-EXAMINATION BY MR. LAFAYETTE 538 3

CROSS-EXAMINATION BY MR. LAFAYETTE (RESUMED) 597 3

NEWTON, BRIANNA

DIRECT EXAMINATION BY MS. NUGENT 584 3

CROSS-EXAMINATION BY MR. LAFAYETTE 593 3

PLAINTIFF'S EXHIBITS:**WITHDRAWN****ID.****EVD.****VOL.**

8 437 3

10 439 3

12 440 3

15 441 3

19 452 3

61 510 3

101 495 3

102 496 3

147 529 3

148 530 3

149 531 3

150A 523 3

151 532 3

152 531 3

	<u>PLAINTIFF'S EXHIBITS:</u>	<u>WITHDRAWN</u>	<u>ID.</u>	<u>EVD.</u>	<u>VOL.</u>
1					
2	153			532	3
3	154			532	3
4	155			532	3
5	156			534	3
6	157			534	3
7	158A			534	3
8	160			523	3
9	162			532	3
10	164			524	3
11	177A			525	3
12	194A			524	3
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(PROCEEDINGS HELD OUTSIDE THE PRESENCE OF THE JURY.)

THE COURT: LET'S CALL THE CASE.

MS. SMALLETS: YES. WE HAVE THE REQUEST FOR DISMISSAL, AND WE ALSO HAVE AN ISSUE THAT I THINK MAY COME UP WITH THE PLAINTIFF'S TESTIMONY WITH RESPECT TO HOW HER JOB

1 SEARCH INTERACTS WITH THE UNION GRIEVANCE -- HOW HER JOB
2 SEARCH INTERACTS WITH THE UNION GRIEVANCE.

3 **THE COURT:** ALL RIGHT. MR. LAFAYETTE. ANY ISSUES?

4 **MR. LAFAYETTE:** JUST ONE, YOUR HONOR. IT HAS TO DO
5 WITH MY DESIRE NOT TO MAKE OBJECTIONS IF I DON'T HAVE TO, AND
6 IT HAS TO DO WITH THE WAY THE PLAINTIFF IS EXAMINED WHEN SHE
7 TESTIFIES.

8 **THE COURT:** ALL RIGHT. LET'S START WITH YOU,
9 MS. SMALLETS.

10 **MS. SMALLETS:** WE HAVE EXHIBIT 137A AND 70A FOR THE
11 COURT AND FOR OPPOSING COUNSEL.

12 **THE COURT:** OKAY. YOU SHOWED IT TO MR. LAFAYETTE?

13 **MR. LAFAYETTE:** I HAVE A COPY. THEY ARE FINE, YOUR
14 HONOR.

15 **THE COURT:** ALL RIGHT.

16 (EXHIBITS HANDED TO COURT.)

17 **MS. SMALLETS:** I AM SORRY. I GAVE -- ONE OF THE
18 COPIES WAS FOR US.

19 **THE COURT:** I DON'T -- FRANCES, I DON'T REALLY NEED
20 THEM.

21 **THE CLERK:** OKAY. GREAT.

22 **THE COURT:** ALL RIGHT.

23 **MS. SMALLETS:** WE ALSO ADDED ADDITIONAL EXHIBITS TO
24 MS. NEWTON'S EXHIBIT BINDER. A FEW OF THOSE EXHIBITS ARE A'S.
25 THEY'RE EXCERPTS FROM SOME VOLUMINOUS BENEFITS DOCUMENTS. WE

1 SENT THEM TO MR. LAFAYETTE LAST NIGHT.

2 **MR. LAFAYETTE:** I AM SORRY. I WAS IN THE HOSPITAL
3 LAST NIGHT --

4 **THE COURT:** SO, FIRST OF ALL, AGAIN, MR. LAFAYETTE, I
5 DON'T KNOW WHERE YOU TYPICALLY PRACTICE, BUT I REQUIRE MORE
6 DECORUM THAN YOU ARE EXHIBITING. DO NOT TALK TO COUNSEL.
7 WHEN WE ARE ON THE RECORD, YOU CAN DO IT AS MUCH AS YOU WANT.
8 IN FACT, I ENCOURAGE IT WHEN WE ARE NOT. SO TALK TO ME.

9 **MR. LAFAYETTE:** IF THEY SENT SOMETHING LAST NIGHT I
10 DIDN'T SEE IT. I WENT TO THE HOSPITAL BECAUSE OF MY LEG.

11 **THE COURT:** ALL RIGHT.

12 **MR. LAFAYETTE:** SO I JUST HAVEN'T HAD A CHANCE TO
13 TALK WITH THEM ABOUT IT.

14 **THE COURT:** OKAY. THEN I WILL GIVE YOU AN
15 OPPORTUNITY TO CHAT.

16 **MR. LAFAYETTE:** THANK YOU.

17 **THE COURT:** SO SHE SAYS SHE SENT THEM TO YOU. I
18 DON'T KNOW THAT THIS IS -- I MEAN, AS LONG AS THEY'RE ON THE
19 LIST. I SAID YOU COULD ADD THINGS TO THE BINDER RATHER THAN
20 REDOING BINDERS EVERY NIGHT, SO THAT SHOULD BE FINE. ALL
21 RIGHT.

22 WHAT ELSE? YOU HAVE THE REQUEST FOR DISMISSAL? DO WE
23 HAVE IT ON THE DOCKET?

24 **MS. SMALLETS:** WE JUST HAD THE STIPULATION SIGNED BY
25 MR. LAFAYETTE. WE DO HAVE IT. WE WILL FILE IT ON THE --

1 **THE COURT:** OKAY. JUST FILE IT ON THE DOCKET.
2 THAT'S FINE. OR DO YOU WANT TO GIVE IT TO -- FRANCES, CAN WE
3 DO THAT EASILY ENOUGH?

4 **THE CLERK:** DO -- YOU WANT --

5 **THE COURT:** CAN WE FILE THAT?

6 **THE CLERK:** THEY SHOULD E-FILE IT.

7 **MS. SMALLETS:** WE JUST GOT MR. LAFAYETTE'S
8 SIGNATURE --

9 **THE COURT:** THAT'S FINE. WE CAN GIVE IT BACK THEN.

10 (DOCUMENT HANDED TO COURT.)

11 **THE COURT:** HERE. GIVE IT BACK TO THEM SO THEY CAN
12 FILE IT.

13 **THE CLERK:** OKAY. FOUR EXHIBITS --

14 **THE COURT:** THEY ARE FROM THE OTHER SIDE.

15 **MS. SMALLETS:** SO ONE OF THE THINGS MS. NEWTON WOULD
16 TESTIFY TO WITH RESPECT TO --

17 **THE COURT:** JUST A MINUTE. DO YOU NEED TO SIT,
18 MR. LAFAYETTE?

19 **MR. LAFAYETTE:** NO, YOUR HONOR. I CAN STAND RIGHT
20 NOW. I'M FINE.

21 **THE COURT:** ALL RIGHT. GO AHEAD.

22 **MS. SMALLETS:** ONE OF THE THINGS MS. NEWTON WOULD
23 TESTIFY TO WITH RESPECT TO HER JOB SEARCH IS THAT FOR A PERIOD
24 OF TIME SHE WAS HOPING TO GET HER JOB BACK AT SHELL.

25 WHAT MY HOPE THE TESTIMONY WOULD BE TO ELICIT WOULD BE

1 SIMPLY THAT SHE FILED A UNION GRIEVANCE, IT WASN'T SUCCESSFUL
2 BECAUSE SHE WASN'T A MEMBER OF THE UNION. I THINK THAT ALLOWS
3 US TO AVOID ANY ISSUES ABOUT THE INVESTIGATION WHILE ALLOWING
4 THE JURY TO KNOW THE FACT THAT THAT AFFECTED HER JOB SEARCH.
5 BUT BECAUSE ISSUES, WE SAID NOTHING ABOUT THE UNION
6 INVESTIGATION, EXCEPT TO THE EXTENT MITIGATION CAME IN, SO I
7 WANTED TO MAKE SURE THAT WE WERE IN ACCORDANCE WITH THE
8 COURT'S ORDER ON THAT TOPIC.

9 **THE COURT:** ANY RESPONSE?

10 **MR. LAFAYETTE:** YES, YOUR HONOR.

11 THE UNION -- WHATEVER THIS UNION THING WAS WAS OVER IN A
12 FEW MONTHS. IT'S NOW 2018. I DO NOT INTEND TO ARGUE THAT FOR
13 THOSE FEW MONTHS THAT SHE WASN'T LOOKING FOR A JOB. I
14 RATHER -- I WOULD RATHER SAY THAT I WON'T ASK -- SAY THAT SHE
15 WASN'T LOOKING FOR A JOB UP UNTIL THAT TIME THE UNION THING
16 ENDED.

17 MY MITIGATION ISSUES GO FOR PERIODS OF TIME MUCH MORE
18 SUBSTANTIAL AFTER THAT.

19 **THE COURT:** ALL RIGHT. SO DO THE PARTIES STIPULATE
20 THAT THERE IS -- HOW MANY MONTHS DID THE -- HOW MANY MONTHS
21 DID THE INTERNAL APPEAL --

22 **MS. SMALLETS:** FOUR.

23 **THE COURT:** FOUR MONTHS? MR. LAFAYETTE, DO YOU
24 STIPULATE --

25 **MR. LAFAYETTE:** YES, YOUR HONOR.

1 **THE COURT:** -- THAT THE FOUR MONTHS IS NOT A... IS
2 NOT EVIDENCE OF FAILURE TO MITIGATE?

3 **MR. LAFAYETTE:** YES.

4 **THE COURT:** ALL RIGHT. THEN IT IS A NONISSUE.

5 **MS. SMALLETS:** OKAY. YOUR HONOR. THANK YOU.

6 **THE COURT:** WITH THAT STIPULATION, IF HE VIOLATES
7 THAT STIPULATION, I WILL INSTRUCT THE JURY.

8 **MS. SMALLETS:** OKAY.

9 **THE COURT:** OKAY. THE EXAMINATION, MR. LAFAYETTE.

10 **MR. LAFAYETTE:** I LISTENED TO WHAT YOU SAID
11 YESTERDAY, YOUR HONOR, AND --

12 **THE COURT:** THAT'S GOOD BECAUSE I THINK EVERYONE IN
13 THE COURTROOM HEARD ME. MY PATIENCE HAD BEEN EXTINGUISHED.

14 **MR. LAFAYETTE:** YES. THERE IS A CONCERN I HAVE.

15 AS YESTERDAY, THE PLAINTIFF WAS TESTIFYING THERE WOULD BE
16 A QUESTION ASKED AND THEN SHE WOULD GO ON AND ON AND ON. MY
17 CONCERN BECOMES I DON'T KNOW IF SHE'S ABOUT TO SAY
18 SOMETHING THAT I --

19 **THE COURT:** I DON'T DISAGREE, MR. LAFAYETTE, RIGHT?
20 IT'S CALLED A NARRATIVE. SHE CANNOT NARRATE.

21 THAT SAID, WHAT WE WERE TALKING ABOUT WAS REALLY BASIC
22 BACKGROUND STUFF. YOU KNOW? I KNOW THAT PEOPLE DON'T LIKE IT
23 WHEN THE OTHER SIDE TRIES TO MAKE THE WITNESSES MORE HUMAN AND
24 ACCESSIBLE TO THE JURY. YOU DON'T LIKE IT. I GET THAT. BUT
25 CONSTANT OBJECTIONS ARE UNNECESSARY.

1 THE LEGAL OBJECTION IS... IS, YOU KNOW, IT COULD BE
2 OUTSIDE THE SCOPE OF THE QUESTION BUT IT IS ALSO A NARRATION.
3 I WILL SUSTAIN NARRATIONS. BUT YOU KNOW, YOU WERE PULLING THE
4 TRIGGER A LITTLE BIT TOO QUICKLY. BOTH SIDES HAVE BEEN DOING
5 THIS. NOT JUST YOU, BOTH SIDES.

6 **MR. LAFAYETTE:** I WOULD SAY, YOUR HONOR, THAT WHAT --
7 HAVING TAKEN HER DEPOSITION AND THE DIFFICULTIES I ENCOUNTERED
8 THERE WITH THE NARRATIONS, I BECAME CONCERNED THAT WE WERE NOW
9 TALKING ABOUT JEFF FISCHER, WHO IS A FOCAL POINT OF THEIR
10 CASE.

11 AND WHEN WE GOT TO TALKING ABOUT JEFF FISCHER, I HAD A
12 HEIGHTENED SENSE OF AWARENESS OF WHAT I UNDERSTOOD SHE WOULD
13 BE SAYING. AND THAT MAY NOT BE SOMETHING THAT EVERYBODY
14 APPRECIATES, BUT HAVING TAKEN HER DEPOSITION AND GONE THROUGH
15 HER TRANSCRIPT, THAT IS WHERE MY CONCERN CAME IN. AND SO I
16 WOULD LIKE NOT TO HAVE TO DO THAT.

17 AND I WOULD LIKE FOR THE PLAINTIFF NOT TO MAKE THOSE
18 NARRATIONS LIKE THAT BECAUSE IT PUTS ME IN A POSITION WHERE I
19 RUN THE RISK OF SOMETHING BEING SAID THAT I CAN'T PULL BACK.

20 **THE COURT:** YOU ARE ORDERED TO TALK TO YOUR WITNESS
21 AND HAVE HER FOCUS ON THE QUESTION THAT YOU ARE ASKING AND
22 ONLY ANSWER THAT QUESTION.

23 IF I HAVE TO INSTRUCT THE WITNESS, JUST LIKE IF I DECIDE
24 THAT THE WITNESS -- YOU'RE LISTENING TO ME, MS. NEWTON, LISTEN
25 TO THE QUESTION AND ONLY ANSWER THE QUESTION.

1 THE OTHER SIDE HAS THE RIGHT TO OBJECT. IF YOU JUST GO ON
2 AND ON AND ON, WE DON'T KNOW WHAT'S COMING. SO THIS IS NOT A
3 CONVERSATION. IT IS A QUESTION AND ANSWER. THAT'S THE WAY IT
4 WORKS.

5 SO, EVERYBODY HAS BEEN PUT ON NOTICE. IF I HAVE TO
6 REPRIMAND, AND I DON'T LIKE TO REPRIMAND IN FRONT OF THE JURY,
7 BUT I WILL IF I NEED TO REPRIMAND A WITNESS OR REPRIMAND A
8 LAWYER. EVERYBODY HAS NOW BEEN PUT ON NOTICE. OKAY?

9 TRY TO FOLLOW THE RULES. THE RULES ARE YOU ANSWER THE
10 QUESTION ONLY. IF YOU ARE CONCERNED, JUST SAY DO YOU WANT
11 SOME MORE, OR WHATEVER. BUT YOU NEED TO CUT HER OFF, TOO.
12 THAT'S YOUR JOB TO PROTECT HER FROM ME REPRIMANDING HER. ALL
13 RIGHT? KEEP IT FOCUSED.

14 **MS. SMALLETS:** YES, YOUR HONOR.

15 **THE COURT:** ALL RIGHT.

16 **MR. LAFAYETTE:** YES, YOUR HONOR.

17 **THE COURT:** ONE OTHER THING. WHO IS THE KEEPER OF
18 THE EXHIBIT LIST? AS SOON AS EVIDENCE CLOSES AND I SEND THIS
19 BACK TO THE JURY, I AM GOING TO NEED THE LIST OF EVERYTHING
20 THAT IS BEING ADMITTED. I HAVE NOW ADMITTED QUITE A FEW. I
21 GAVE YOU THE LIST YESTERDAY.

22 WHO IS PUTTING THAT TOGETHER? IT SHOULD BE AN ONGOING
23 AFFAIR.

24 **MS. SMALLETS:** WE HAVE ONE, YOUR HONOR.

25 **MR. LAFAYETTE:** WE DO, TOO. WE SHOULD COORDINATE AT

1 THE END OF EACH DAY TO MAKE SURE WE ARE ON THE SAME PAGE. WE
2 WILL DO THAT.

3 **MS. SMALLETS:** YES, YOUR HONOR.

4 **THE COURT:** ALL RIGHT. THEN WE WILL STAND IN RECESS
5 UNTIL THE JURY IS HERE.

6 **MR. LAFAYETTE:** THANK YOU, YOUR HONOR.

7 **THE COURT:** WHERE ARE THE EXHIBITS THAT I AM
8 EXPECTING FROM THE DEFENSE?

9 **MR. LAFAYETTE:** JUST A SECOND.

10 MR. SU IS BRINGING THEM AND HE SENT ME A TEXT MESSAGE.

11 **THE COURT:** ALL RIGHT. WE WILL STAND IN RECESS.

12 **MR. LAFAYETTE:** OKAY.

13 (RECESS TAKEN AT 8:13 A.M.; RESUMED AT 8:18 A.M.)

14 (PROCEEDINGS HELD OUTSIDE THE PRESENCE OF THE JURY.)

15 **THE COURT:** WE ARE BACK ON THE RECORD.

16 **MS. NUGENT:** OKAY. AFTER WE JUST WENT OFF THE
17 RECORD, WE GOT A TEXT FROM ONE OF THE WITNESSES WHO WAS
18 SUPPOSED TO BE HERE TODAY. HE HAS LET US KNOW HIS GIRLFRIEND
19 AND KIDS JUST GOT INTO A CAR ACCIDENT AND TAKEN TO THE
20 HOSPITAL. SO OBVIOUSLY THAT TAKES PRIORITY. THAT WAS
21 MR. NAVARRO. JOSE NAVARRO.

22 HE WAS ONLY GOING TO BE A SHORT WITNESS ANYWAY. MY
23 SUGGESTION LAST NIGHT WITH COUNSEL WAS THAT, IF THERE WAS ANY
24 TIME REMAINING, WE WOULD CALL MS. OSTROFE, THE ECONOMIST. WE
25 DIDN'T GIVE THAT NOTICE IN THE MORNING, BUT IN THE AFTERNOON.

1 HE ASKED US IF MAYBE WE WILL REST AFTER THESE WITNESSES. I
2 SAID, NO, IF THERE IS STILL TIME, WE WILL CALL HER.

3 THAT WOULD BE OUR PLAN. WE MAY -- MAY NOT HAVE TIME FOR
4 HER, BUT I JUST WANTED TO ALERT THE COURT TO THIS.

5 **THE COURT:** OKAY. SO THE PLAN FOR TODAY, MS. NUGENT,
6 IS WHAT?

7 **MS. NUGENT:** THE PLAN FOR TODAY IS MS. NEWTON, CIARA
8 NEWTON, HER SISTER, BRIANNA NEWTON, AND WE WERE ALSO GOING TO
9 CALL MR. NAVARRO. I IMAGINE MS. NEWTON, JUST GIVEN THE TIME
10 ESTIMATES, IS GOING TO TAKE UP MOST OF THE DAY.

11 **THE COURT:** AND THEN -- AND THEN THE PLAN FOR
12 TOMORROW IS WHAT?

13 **MS. NUGENT:** PLAN FOR TOMORROW IS MS. OSTROFE,
14 MR. BECK -- MIKE BECK, JEFF FISCHER, RAY JONES, AND RICHARD
15 METCALF. AND IF MR. NAVARRO CAN MAKE IT, PERHAPS. IF NOT, WE
16 MAY HAVE TO TAKE HIM OUT OF ORDER AT SOME OTHER TIME.

17 **THE COURT:** AND WAS THE INTENT TO REST TOMORROW?

18 **MS. NUGENT:** THAT WAS THE INTENT, YES, OR FRIDAY
19 MORNING AT THE LATEST.

20 **THE COURT:** OKAY. ALL RIGHT. ANY COMMENTS?

21 **MR. LAFAYETTE:** YES, YOUR HONOR. WITH REGARD TO
22 MS. OSTROFE ONLY.

23 WE DIDN'T GET NOTICE OF HER YESTERDAY MORNING. WE GOT A
24 LIST THAT INCLUDED ONLY THE PLAINTIFF AND THEN BRIANNA NEWTON,
25 AND AFTER HER IT WAS JOSE NAVARRO. SO, AS I WAS GOING OUT OF

1 MY OFFICE TO THE HOSPITAL, I SENT AN EMAIL AND I ASKED
2 PLAINTIFF IF THEY INTENDED TO REST TOMORROW.

3 SHE SENT AN EMAIL AND SHE SAID NO.

4 **THE COURT:** REST TOMORROW MEANING?

5 **MR. LAFAYETTE:** MEANING TODAY. BECAUSE I LOOKED AT
6 THE LIST, AND I WANTED TO KNOW WHERE WE WERE.

7 SHE SAID NO. SHE SAID SOMETHING TO THE EFFECT OF, IF WE
8 RUN -- IF WE RUN SHORT THAT THEY WOULD CALL MS. OSTROFE.

9 WELL, I'M NOT IN A POSITION TODAY TO CROSS-EXAMINE
10 MS. OSTROFE.

11 **THE COURT:** OKAY. I UNDERSTAND.

12 **MS. NUGENT:** ABSOLUTELY. YEAH.

13 **THE COURT:** THAT'S FINE. IF NOTHING ELSE, THEY CAN
14 PUT ON DIRECT AND YOU CAN CROSS TOMORROW.

15 **MR. LAFAYETTE:** THAT'S FINE, YOUR HONOR.

16 **THE COURT:** ALL RIGHT.

17 **MS. NUGENT:** THANK YOU.

18 **THE COURT:** OKAY. THANK YOU.

19 (RECESS TAKEN AT 8:21 A.M., RESUMED AT 8:35 A.M.)

20 **THE COURT:** ALL RIGHT. BRING OUT THE JURORS. BRING
21 THEM ON IN.

22 (PROCEEDINGS HELD IN THE PRESENCE OF THE JURY.)

23 **THE COURT:** GOOD MORNING. THE RECORD WILL REFLECT
24 THE JURY IS BACK WITH US.

25 I KEEP AN EXCEL SPREADSHEET WITH THEIR TIME, AND SO THAT

1 IS WHAT WE WERE TALKING ABOUT IN TERMS OF HOW MANY MINUTES
2 THEY HAVE LEFT AND HOURS. I SHOULDN'T JUST SAY MINUTES, AND
3 HOURS.

4 HOW IS EVERYBODY THIS MORNING? GOOD? GOOD. ALL OUR PENS
5 ARE WORKING? EXCELLENT. OKAY.

6 WE ARE ALREADY TO GET STARTED. ANY QUESTIONS? NO?

7 ALL RIGHT. WE WILL CONTINUE WITH THE -- MS. NEWTON'S
8 EXAMINATION. MS. SMALLETS, YOU MAY PROCEED.

9 AND I WILL REMIND YOU, MS. NEWTON, YOU ARE STILL UNDER
10 OATH. OKAY. THANK YOU. GO AHEAD.

11 **DIRECT EXAMINATION RESUMED**

12 **BY MS. SMALLETS:**

13 **Q.** GOOD MORNING, MS. NEWTON.

14 **A.** GOOD MORNING.

15 **THE COURT:** TURN UP HER MIC PLEASE. ALL RIGHT. ONE
16 MORE TIME? ALL RIGHT. PERFECT.

17 GO AHEAD.

18 **Q.** WE TALKED YESTERDAY ABOUT A CONVERSATION THAT YOU HAD WITH
19 ERIC PEREZ IN MARCH.

20 TO ORIENT YOU, THAT WAS THE CONVERSATION WHERE YOU SAID
21 YOU DISCUSSED YOUR SCHEDULE WITH ERIC PEREZ AMONG OTHER
22 THINGS.

23 HOW MANY CONVERSATIONS HAD YOU HAD WITH ERIC PEREZ PRIOR
24 TO THAT CONVERSATION?

25 **A.** THAT WAS OUR FIRST CONVERSATION.

1 Q. AND YOU ALSO TESTIFIED TO ANOTHER CONVERSATION THAT YOU
2 HAD WITH ERIC PEREZ IN WHICH YOU DISCUSSED THE TARDY THAT
3 MR. FISCHER GAVE YOU.

4 DO YOU RECALL THAT?

5 A. YES.

6 Q. HOW MANY CONVERSATIONS DID YOU HAVE WITH ERIC PEREZ
7 BETWEEN THOSE TWO CONVERSATIONS?

8 A. NONE.

9 Q. NOW, I WOULD LIKE TO RETURN YOUR ATTENTION TO THE TRAINING
10 ENVIRONMENT UNDER JEFF FISCHER.

11 DID MR. FISCHER MAKE ANY OTHER COMMENTS THAT YOU
12 CONSIDERED OFFENSIVE?

13 A. DID WE GO OVER THIS YESTERDAY? I'M NOT SURE WHAT I
14 ALREADY SAID.

15 Q. DID MR. FISCHER EVER MAKE ANY STATEMENTS ABOUT YOUR
16 MECHANICAL ABILITIES?

17 MR. LAFAYETTE: OBJECTION, LEADING.

18 THE COURT: IT IS BUT I'M GOING TO GIVE HER A LITTLE
19 BIT OF LATITUDE BECAUSE SHE JUST INDICATED SHE DIDN'T REMEMBER
20 WHAT SHE ALREADY SAID. OR COULD YOU REMIND HER -- WHY DON'T
21 YOU REMIND HER WHICH ONES SHE TALKED ABOUT ALREADY AND THEN
22 YOU WON'T HAVE TO LEAD.

23 MS. SMALLETS: SURE.

24 BY MS. SMALLETS:

25 Q. YOU TESTIFIED REGARDING A CONVERSATION ABOUT GIRLS ON THE

1 TEAM, REGARDING MR. FISCHER'S DECISION TO HIRE YOU -- SORRY
2 THAT'S -- SHELL'S DECISION TO HIRE YOU. I'M SORRY. I WANT TO
3 MAKE SURE THAT IS ACCURATE. AND COMMENTS ABOUT WALKING TO THE
4 GATE AND YOU TESTIFIED REGARDING COMMENTS MR. FISCHER MADE
5 ABOUT WHETHER OR NOT WOMEN WOULD MAKE IN OPCEN AND WHETHER
6 WOMEN LAST AND MAKE IT IN OPCEN?

7 **A.** O AHEAD AND ANSWER?

8 **Q.** YES.

9 **A.** SO ONE OF THE OTHER THINGS THAT JEFF SAID WAS THAT HE SAID
10 HE WASN'T MECHANICALLY INCLINED.

11 **Q.** WHAT DID HE SAY?

12 **A.** MANAGERS WOULD PEAK THEIR HEAD IN AND CHECK ON OUR
13 PROGRESS, AND EVERY TIME HE WOULD LET THEM KNOW THAT I DID, HE
14 THOUGHT I WAS HAVING TROUBLE THAT I WASN'T MECHANICALLY
15 INCLINED.

16 **Q.** DO YOU RECALL ANY MANAGERS HE SPECIFICALLY SAID THAT TO?

17 **A.** GRAYSON HILDERBRAND.

18 **Q.** DO YOU KNOW WHAT GRAYSON'S JOB AT THE PLANT WAS?

19 **A.** I THINK HE WAS THE MAIN MANAGER OF THE PLANT I WAS WORKING
20 IN.

21 **Q.** DO YOU KNOW IF MR. FISCHER'S STATEMENT THAT YOU WEREN'T
22 MECHANICALLY INCLINED DID YOU THINK THAT WAS TRUE?

23 **A.** NO.

24 **Q.** WHY NOT?

25 **A.** I DIDN'T THINK IT WAS TRUE BECAUSE AT THE POINT HE WAS

1 SAYING IT, WE HAD MOSTLY BEEN IN THE CLASS DOING THINGS ON THE
2 BOARD. SO I DIDN'T KNOW WHERE HE DREW THIS CONCLUSION. AND I
3 THOUGHT OF MYSELF AS MECHANICALLY INCLINED AND I TOOK THE SAME
4 MECHANICAL APTITUDE TEST THAT EVERYONE ELSE TOOK.

5 Q. HOW DID IT MAKE YOU FEEL WHEN YOU HEARD MR. FISCHER SAY
6 THIS TO OTHER PEOPLE?

7 A. I THOUGHT HE WAS SETTING A BAD REPUTATION FOR PEOPLE THAT
8 I WANTED TO IMPRESS IN THE WORKPLACE.

9 Q. DID MR. FISCHER MAKE ANY OTHER STATEMENTS TO THE MANAGERS
10 IN YOUR TRAINING CLASS ABOUT YOUR PROGRESS?

11 MR. LAFAYETTE: OBJECTION, FOUNDATION, HEARSAY.

12 THE COURT: OVERRULED.

13 THE WITNESS: HE JUST REPEATEDLY TOLD THEM THAT I HAD
14 FALLEN BEHIND.

15 BY MS. SMALLETS:

16 Q. WAS THAT TRUE?

17 A. NO. WELL, IT WAS TRUE WHEN I RETURNED FROM FIVE DAYS OFF
18 FOR BEREAVEMENT, BUT IT WASN'T VERY LONG -- IT DIDN'T TAKE
19 VERY LONG FOR ME TO CATCH UP, AND HE KEPT ON SAYING IT.

20 Q. TELL THE JURY ABOUT MR. FISCHER'S DEMEANOR TOWARD YOU.

21 A. HE WAS VERY AGGRESSIVE AND JUST SEEMED REALLY ANNOYED
22 ABOUT MY PRESENCE RIGHT FROM THE VERY BEGINNING.

23 Q. DID HE MAKE ANY GESTURES TOWARDS YOU?

24 A. YES.

25 Q. COULD YOU DESCRIBE THEM?

1 **A.** HE WOULD WHENEVER HE WOULD ASK ME A QUESTION, CAN I SHOW
2 YOU OR....

3 **Q.** MAY THE WITNESS DEMONSTRATE?

4 **A.** WHENEVER HE -- HE WOULD DO LIKE THIS (INDICATING) THE
5 ENTIRE TIME WHILE HE ASKED ME THE QUESTION AND KIND OF JUST
6 GLARE AT ME. AND IT JUST MADE IT A LITTLE HARD TO FOCUS AND I
7 FELT....

8 **Q.** HOW DID THAT MAKE YOU FEEL?

9 **A.** I FELT INTIMIDATED.

10 **Q.** DID -- HOW DID MR. FISCHER TREAT THE OTHER TRAINEES?

11 **A.** HE TREATED THEM DIFFERENTLY THAN HE TREATED ME. HE WASN'T
12 OVERLY FRIENDLY, BUT HE DEFINITELY DIDN'T TREAT THEM IN THE
13 SAME MANNER.

14 **Q.** HOW DID MR. FISCHER TREAT PATRICK NEUMAN?

15 **A.** HE TREATED HIM PRETTY GOOD -- THE MOST -- MOST OF THE
16 TRAINING. ONCE PATRICK STARTED TO FALL BEHIND, HE DID EXPRESS
17 A LITTLE FRUSTRATION WITH HIM AS WELL.

18 **Q.** DID HE SNAP HIS PAPER AT PATRICK?

19 **A.** NOT THAT I REMEMBER.

20 YEAH. MAYBE ONCE OR TWICE WHEN PATRICK GOT AN ANSWER
21 WRONG BUT NOT WHILE HE WAS ASKING HIM THE QUESTION.

22 **Q.** DID ANYTHING ELSE HAPPEN DURING THE TIME THAT YOU WERE
23 TRAINING WITH MR. FISCHER THAT YOU FOUND OFFENSIVE?

24 **A.** NOT THAT I CAN THINK OF RIGHT NOW.

25 **Q.** DID ANYTHING HAPPEN THAT DELAYED YOUR PROGRESS IN THE

1 CLASS?

2 **A.** WHEN I GOT BACK FROM -- WHEN I GOT BACK FROM SOME TIME
3 OFF, HE LET ME KNOW THAT HE COULDN'T CATCH ME UP. EVENTUALLY,
4 I FELT LIKE I DID CATCH UP. SO I ATTEMPTED TO GO OUT AND
5 FOLLOW THEM IN THEIR TRAINING, AND HE TOLD ME TO STAY BEHIND
6 AND SAID THAT I WASN'T READY. AND I JUST HAD TO KEEP
7 INSISTING THAT I WAS READY.

8 **Q.** AS PART OF YOUR TRAINING DID YOU HAVE TO DRAW -- MAKE
9 DRAWINGS?

10 **A.** YEAH. SO WE DREW A FLOW CHART ON A WHITE BOARD.

11 **Q.** AT ANY -- WHAT HAPPENED WITH THAT DRAWING?

12 **A.** IT WAS A PRETTY DETAILED DRAWING OF WHAT IS GOING ON IN
13 THE PROCESS AND I WAS HALFWAY DONE. WHEN I SHOWED UP ONE
14 MORNING, WE ALL HAD OUR FLOW PROCESS ON A WHITE BOARD. IT WAS
15 ERASED. MINE WAS COMPLETELY ERASED AND HAD IT SAID FAIRY
16 DUST.

17 **Q.** WAS ANYONE ELSE PRESENT WHEN YOU SAW YOUR CHART HAD BEEN
18 ERASED?

19 **A.** I KNOW JEFF -- WHEN I WALKED INTO THE CLASS TO SEE THAT, I
20 KNOW JEFF FISCHER WAS PRESENT AND I BELIEVE JOSE NAVARRO.

21 **Q.** WHAT WAS MR. FISCHER'S REACTION?

22 **A.** HE DIDN'T -- HE JUST SEEMED LIKE HE DIDN'T CARE. HE
23 DIDN'T -- HE JUST SAT THERE TO SEE HOW I WOULD REACT.

24 **Q.** DID --

25 **A.** AND JOSE --

1 Q. DID YOU TALK -- YOU SAY ANYTHING ABOUT IT?

2 A. NOT REALLY. I JUST SAID SOMEONE ERASED MY CHART AND HE
3 SAID JUST TO START OVER.

4 Q. AND WHAT WERE THE OTHER -- THE OTHER THREE TRAINEES IN
5 YOUR CLASS DOING WHILE YOU WERE STARTING OVER?

6 A. THEY CONTINUED ON, SO THEY FINISHED THEIRS AND I WAS
7 RESTARTING MINE.

8 Q. I WOULD LIKE TO TURN YOUR ATTENTION TO YOUR PD LOG. IT'S
9 EXHIBIT 83 IN YOUR BINDER.

10 MR. LAFAYETTE: I COULDN'T HEAR THE EXHIBIT NUMBER,
11 YOUR HONOR.

12 THE COURT: 83, WHICH IS ADMITTED.

13 BY MS. SMALLETS:

14 Q. CAN YOU TELL US WHAT A PD LOG IS?

15 A. IT'S A POSITIVE -- POSITIVE REINFORCEMENT LOG. SO THEY
16 CAN WRITE POSITIVE THINGS AND NEGATIVE THINGS IN YOUR CHART.

17 Q. DID MR. FISCHER EVER MAKE ANY ENTRIES IN YOUR PD LOG?

18 A. YES. THREE.

19 Q. I WOULD LIKE YOU TO TAKE A LOOK AT THE ENTRY FOR
20 APRIL 4TH --

21 THE CLERK: IT IS TAKING A SECOND TO GET IT UP ON THE
22 SCREEN.

23 (PAUSE IN THE PROCEEDINGS.)

24 BY MS. SMALLETS:

25 Q. CAN YOU TELL ME WHAT THAT ENTRY ON APRIL 4TH WAS ABOUT?

1 **A.** IT SAYS THAT I FELL BEHIND AND THAT I SHOULD BE MUCH
2 FURTHER ALONG. I DON'T THINK HE EVER TOLD ME ABOUT THIS
3 COACHING AT THE TIME.

4 **Q.** DID YOU THINK THAT COACHING WAS FAIR?
5 DID YOU THINK THAT COACHING WAS FAIR?

6 **A.** I DID NOT.

7 **Q.** WHY NOT?

8 **A.** I FELT THAT I HAD CAUGHT UP BY THAT TIME. I ALSO FELT
9 THAT ANOTHER STUDENT HAD FALLEN BEHIND FURTHER THAN ME AND HE
10 DIDN'T MISS ANY TIME, SO I THOUGHT MAYBE THE SITUATION SHOULD
11 HAVE BEEN INCLUDED.

12 **MR. LAFAYETTE:** OBJECTION, YOUR HONOR, IT IS OUTSIDE
13 THE SCOPE OF HER KNOWLEDGE. NO FOUNDATION FOR THIS TESTIMONY.
14 IT IS HEARSAY.

15 **THE COURT:** OVERRULED.

16 **BY MS. SMALLETS:**

17 **Q.** WHAT WAS THE -- WHO WAS THAT OTHER STUDENT?

18 **A.** PATRICK NEUMAN.

19 **Q.** DID YOU RECEIVE ANY -- TAKE A LOOK AT EXHIBIT 8 IN YOUR
20 WITNESS BINDER.

21 CAN YOU TELL US WHAT THIS IS?

22 **A.** 30-DAY PROGRESS REPORT, THE THIRD ONE.

23 **Q.** WHO GAVE YOU THIS REPORT?

24 **A.** JEFF FISCHER.

25 **Q.** DID YOU DISCUSS THIS REVIEW WITH JEFF FISCHER?

1 **A.** YES.

2 **MS. SMALLETS:** YOUR HONOR, WE WOULD LIKE TO ADMIT
3 EXHIBIT 8 INTO EVIDENCE.

4 **MR. LAFAYETTE:** NO OBJECTION.

5 **THE COURT:** ADMITTED.

6 (PLAINTIFF'S EXHIBIT 8 RECEIVED IN EVIDENCE)

7 **BY MS. SMALLETS:**

8 **Q.** DO YOU RECALL WHAT MR. FISCHER SAID TO YOU ABOUT THIS
9 REVIEW?

10 (DISPLAYED ON SCREEN.)

11 **A.** YEAH. SO THIS IS, AGAIN, HIM TELLING ME THAT I WAS
12 BEHIND.

13 **Q.** WHAT DID MR. FISCHER SAY ABOUT YOUR SAFETY HABITS IN THIS
14 REVIEW?

15 **A.** CIARA IS BEGINNING TO UNDERSTAND THE VARIOUS SAFETY RULES
16 AND REGULATIONS WE HAVE AT THE REFINERY. SHE HAS SHOWN GOOD
17 SAFETY HABITS WHEN DOING THE REQUIRED FIELD WORK. ALWAYS THE
18 FIRST ONE TO PUT ON GOGGLES.

19 **Q.** WHAT DID MR. FISCHER SAY ABOUT YOUR STRENGTHS?

20 **MR. LAFAYETTE:** I COULDN'T HEAR THE QUESTION.

21 **THE COURT:** REPHRASE. GO AHEAD.

22 **BY MS. SMALLETS:**

23 **Q.** WHAT WITH DID MR. FISCHER SAY ABOUT YOUR STRENGTHS? AND
24 THAT'S ON PAGE 2.

25 **A.** CIARA IS NEW TO REFINING AND IS VERY ATTENTIVE AND EAGER

1 TO LEARN. SHE GETS ALONG WELL WITH OTHERS IN THE CLASS AND
2 HELPS OTHERS WHEN NEEDED.

3 Q. DOES THIS DOCUMENT STATE HOW MANY TIMES YOU WERE LATE IN
4 THE REVIEW PERIOD?

5 A. YES. IT SAYS ONCE.

6 MR. LAFAYETTE: OBJECTION, DOCUMENT IS ITS OWN BEST
7 EVIDENCE.

8 THE COURT: OVERRULED.

9 BY MS. SMALLETS:

10 Q. DURING YOUR TRAINING WITH MR. FISCHER, WERE THERE ANY --
11 AS YOUR TRAINING WITH MR. FISCHER WAS DRAWN TO AN END, WERE
12 THERE ANY TESTS YOU HAD TO TAKE?

13 A. YES. THERE WAS TWO.

14 Q. WHAT TESTS WERE THOSE?

15 A. THERE WAS A WRITTEN TEST AND A WALK-THROUGH TEST WITH
16 GRAYSON HILDERBRAND.

17 Q. TAKE A LOOK AT EXHIBIT 10 IN YOUR WITNESS BINDER.

18 CAN YOU TELL US WHAT THAT IS?

19 A. THIS IS THE FINAL WRITTEN EXAM.

20 MS. SMALLETS: WE WOULD LIKE TO MOVE EXHIBIT 10 INTO
21 EVIDENCE.

22 THE COURT: ANY OBJECTION?

23 MR. LAFAYETTE: I'M TRYING TO FIND IT IN THE BINDER,
24 YOUR HONOR.

25 THE COURT: IT'S RIGHT IN THE BINDER, MR. LAFAYETTE.

1 ANY OBJECTION?

2 **MR. LAFAYETTE:** NO, YOUR HONOR.

3 **THE COURT:** ADMITTED.

4 (PLAINTIFF'S EXHIBIT 10 RECEIVED IN EVIDENCE)

5 (DISPLAYED ON SCREEN.)

6 **BY MS. SMALLETS:**

7 **Q.** WHAT WAS YOUR SCORE ON THIS FINAL EXAMPLE?

8 **A.** 96.12.

9 **Q.** TAKE A LOOK AT EXHIBIT 12 IN YOUR WITNESS BINDER.

10 CAN YOU TELL US WHAT THAT IS?

11 **A.** THIS IS THE WALK-THROUGH TEST.

12 **Q.** WHO -- TELL US WHAT A WALK-THROUGH IS.

13 **A.** A WALK-THROUGH TEST IS WITH THE MAIN MANAGER, GRAYSON
14 HILDERBRAND, AND YOU WALK THROUGH THE PLANTS AND GO THROUGH
15 EACH PIECE OF EQUIPMENT AND EXPLAIN EXACTLY WHAT THAT
16 EQUIPMENT DOES AND WHAT IS HAPPENING IN THE PROCESS. AND HE
17 ASKS YOU QUESTIONS ABOUT EACH EQUIPMENT, WHAT'S HAPPENING AND
18 GRADES YOU ON, LIKE, 250 QUESTIONS.

19 **Q.** TAKE A LOOK AT THE LAST PAGE OF THIS DOCUMENT.

20 **A.** THOSE ARE NOT THE REAL QUESTIONS. THEY ARE EXAMPLES.

21 **MS. SMALLETS:** I AM SORRY. WE WOULD LIKE TO MOVE
22 EXHIBIT 12 INTO EVIDENCE.

23 **THE COURT:** ANY OBJECTION?

24 **MR. LAFAYETTE:** NO, YOUR HONOR.

25 **THE COURT:** ADMITTED.

1 (PLAINTIFF'S EXHIBIT 12 RECEIVED IN EVIDENCE)

2 (DISPLAYED ON SCREEN.)

3 **BY MS. SMALLETS:**

4 **Q.** CAN YOU TAKE A LOOK AT THE LAST PAGE?

5 **A.** YES.

6 **Q.** WHAT WAS YOUR SCORE ON THIS EXAM?

7 **A.** 292 OUT OF 296.

8 **Q.** OKAY. AND ARE THESE THE TESTS THAT JEFF FISCHER SAID
9 EARLIER YOU WEREN'T READY TO TAKE OR EITHER OF THESE?

10 **A.** YES.

11 **Q.** WHICH ONE OR BOTH?

12 **A.** BOTH. MOSTLY THE WALK-THROUGH.

13 **Q.** NOW, I WOULD LIKE TO TURN YOUR ATTENTION TO A LITTLE BIT
14 OF A DIFFERENT SUBJECT, THE PARALLEL TRAINING CHECKLIST.

15 **A.** OKAY. DID YOU WANT MORE ABOUT THE WALK-THROUGH?

16 **Q.** WE'RE GOOD. WHAT IS PARALLEL TRAINING?

17 **A.** PARALLEL TRAINING IS YOU GET ASSIGNED TO ONE TRAINER, A
18 QUALIFIED OPERATOR, AND NOW WE'VE PASSED BOTH TESTS AND NOW WE
19 ARE IN THE FIELD ACTUALLY BEING TRAINED IN THE FIELD. NO
20 LONGER IN THE CLASSROOM.

21 **Q.** WHAT HAPPENS WHEN YOU FINISH PARALLEL TRAINING?

22 **A.** ONCE YOU FINISH PARALLEL TRAINING, YOU'RE A QUALIFIED
23 OPERATOR AND YOU NOW WORK ALONE.

24 **Q.** IS THERE ANY BENEFIT TO YOU TO BECOMING A QUALIFIED
25 OPERATOR AS AN EMPLOYEE?

1 **A.** ONE OF THE BENEFITS IS YOU CAN ARRANGE SHIFT SWAPS.

2 **Q.** WHAT DOES THAT MEAN?

3 **A.** YOU CAN EXCHANGE SHIFTS WITH OTHER EMPLOYEES.

4 **Q.** AND --

5 **A.** SO, YOU CAN TAKE A DAY OFF AND THEY CAN WORK IT FOR YOU
6 AND YOU EXCHANGE THAT WITH THEM.

7 **Q.** WHO WAS YOUR TRAINER DURING PARALLEL TRAINING?

8 **A.** I HAD A FEW DIFFERENT TRAINERS. ASHTON, KYLE. ASHTON
9 ELZEY, KYLE SIBLEY, AND CHRIS SALAS.

10 **Q.** WOULD YOU TAKE A LOOK AT EXHIBIT 15 IN YOUR WITNESS
11 BINDER? CAN YOU TELL US WHAT THAT IS?

12 **A.** THIS IS THE PARALLEL TRAINING CHECKLIST.

13 **Q.** WAS THAT COMPLETED FOR YOU?

14 **A.** YES.

15 **MS. SMALLETS:** YOUR HONOR, WE WOULD LIKE TO MOVE
16 EXHIBIT 15 INTO EVIDENCE.

17 **THE COURT:** ANY OBJECTION?

18 **MR. LAFAYETTE:** NO OBJECTION.

19 **THE COURT:** ADMITTED.

20 (PLAINTIFF'S EXHIBIT 15 RECEIVED IN EVIDENCE)

21 (DISPLAYED ON SCREEN.)

22 **BY MS. SMALLETS:**

23 **Q.** DID YOU COMPLETE YOUR PARALLEL TRAINING?

24 **A.** YES.

25 **Q.** AND DID YOU BEGIN WORKING ON SHIFTS?

1 **A.** YES.

2 **Q.** WHAT HAPPENED NEXT?

3 **A.** NEXT, I WAS A QUALIFIED OPERATOR. I WAS WORKING IN HP-2
4 ALONE, UNSUPERVISED.

5 **Q.** DID YOU HAVE ANY CONVERSATION WITH MR. FISCHER ABOUT THE
6 PARALLEL TRAINING CHECKLIST?

7 **A.** LATER. YES, I DID.

8 **Q.** WHAT DID YOU AND MR. FISCHER DISCUSS?

9 **A.** HE ASKED TO SEE MY CHECKLIST AND HE TOLD ME THAT I WASN'T
10 QUALIFIED, AND HE TOOK A WHITEOUT AND WHITED OUT ALL OF THE
11 GUY'S SIGNATURES WHO HAD SIGNED OFF ON MY LIST.

12 **Q.** DID HE SAY ANYTHING WHEN HE DID IT?

13 **A.** HE SAID THESE GUYS AREN'T QUALIFIED TO SIGN OFF YOUR
14 PAPER.

15 **Q.** AND HOW DID THAT INTERACTION WITH MR. FISCHER MAKE YOU
16 FEEL?

17 **A.** I WAS UPSET BECAUSE I KNEW THAT THE OTHER THREE GUYS HAD
18 THE SAME SIGNATURES AND THEY --

19 **MR. LAFAYETTE:** OBJECTION, HEARSAY.

20 **THE COURT:** OVERRULED.

21 **THE WITNESS:** YEAH. I SIGNED OFF ON SOME OF THESE
22 THINGS TOGETHER AS A GROUP, SO I KNEW THAT THE SAME SIGNATURES
23 WERE ON THEIR PAPERS.

24 **MR. LAFAYETTE:** OBJECTION, HEARSAY. MOVE TO STRIKE.

25 **THE COURT:** OVERRULED.

1 **BY MS. SMALLETS:**

2 **Q.** YOU CAN FINISH.

3 **A.** AND SO, I WAS UPSET. WHY DID HE WHITE OUT MINE AND NOT
4 ACCEPT IT AND HE ACCEPTED ALL OF THERE IS. SO I ASKED HIM.

5 **Q.** WHAT DID HE SAY?

6 **A.** HE SAID THEY'RE NOT SMES, MATERIAL EXPERTS.

7 **Q.** DO YOU RECALL WHEN THIS TOOK PLACE?

8 **A.** THE WEEKEND BEFORE MEMORIAL DAY WEEKEND.

9 **Q.** THERE IS A 2016 CALENDAR IN FRONT OF YOU. IT IS JUST A
10 BLANK CALENDAR WITH HOLIDAYS ON IT.

11 **A.** FRIDAY, MAY 27TH.

12 **Q.** WHY DO YOU RECALL IT WAS ON FRIDAY, MAY 27TH?

13 **A.** I RECALL THAT BECAUSE I HAD ARRANGED FOR THE SATURDAY, THE
14 NEXT DAY OFF, FOR A WEDDING. AND SO....

15 **Q.** AND SO WHAT DID YOU DO NEXT ONCE MR. FISCHER WHITED OUT
16 YOUR SIGNATURES?

17 **A.** I WENT TO MY SUPERVISOR, CAMERON, WHO HAD ALREADY APPROVED
18 MY SHIFT SWAP, AND I ASKED HIM WHY DID JEFF FISCHER DO THIS.
19 AND WHAT SHOULD I DO BECAUSE THERE'S FIVE MINUTES LEFT ON THE
20 SHIFT AND I'M SUPPOSED TO LEAVE TOWN.

21 AND HE SAID I DON'T KNOW WHY JEFF DID THAT. THERE'S NO --
22 NO REASON THAT I CAN THINK OF, BUT I'M NOT READY TO CHALLENGE
23 HIM.

24 **Q.** DID HE GIVE YOU ANY INFORMATION ABOUT WHAT YOU SHOULD DO
25 NEXT?

1 **A.** HE GAVE ME ERIC PEREZ'S PERSONAL CELL PHONE AND SAID CALL
2 ERIC PEREZ.

3 **Q.** WHAT DID YOU DO NEXT?

4 **A.** I CALLED ERIC PEREZ. UNFORTUNATELY, I COULDN'T GET AHOLD
5 OF HIM UNTIL 7:00, WHICH IS HIS PERSONAL HOURS, 7:00 P.M. --
6 OR AROUND 7:00 P.M.

7 **Q.** HAD YOU HAD ANY CONVERSATIONS WITH MR. PEREZ BETWEEN THE
8 TIME THAT YOU TALKED TO HIM ABOUT YOUR TARDY AND THIS
9 CONVERSATION ON MAY 27TH?

10 **A.** NO.

11 **Q.** WHAT DID YOU TELL MR. PEREZ WHEN YOU SPOKE TO HIM ON
12 MAY 27TH?

13 **A.** I SAID I'M REALLY SORRY TO BE CALLING YOU ON YOUR TIME
14 OFF, BUT I'M NOT SURE WHAT TO DO BECAUSE I HAD APPROVED
15 SCHEDULE CHANGE APPROVED BY MY SUPERVISOR, CAMERON, BUT
16 ANOTHER SUPERVISOR WHITED OUT -- JEFF FISCHER WHITED OUT ALL
17 OF MY SIGNATURES AND SAID I AM NOT QUALIFIED EVEN THOUGH I
18 HAVE BEEN WORKING IN THE PLANT ALONE FOR A COUPLE OF WEEKS
19 NOW.

20 AND HE SAYS I NEED TO COME IN TOMORROW AND I'M NOT SURE
21 WHAT TO DO.

22 **Q.** WHAT WAS MR. PEREZ'S RESPONSE?

23 **A.** HE SEEMED IRRITATED. HE SAID I DON'T KNOW WHY HE DID THAT
24 BUT I'M NOT THERE, SO JUST GO AHEAD AND TAKE THE DAYS OFF AND
25 WE WILL FIGURE IT OUT LATER.

1 Q. WHO DID HE SEEM IRRITATED AT?

2 MR. LAFAYETTE: OBJECTION.

3 THE WITNESS: ME.

4 THE COURT: SUSTAINED.

5 THE WITNESS: AND I THINK BOTH.

6 THE COURT: I SAID SUSTAINED.

7 MS. SMALLETS: IF THE JUDGE SAYS "SUSTAINED", THAT
8 MEANS YOU DON'T ANSWER THE QUESTION.

9 THE WITNESS: SORRY.

10 BY MS. SMALLETS:

11 Q. WHEN YOU CAME BACK TO WORK, WERE YOU STILL WORKING SHIFTS
12 ON YOUR OWN?

13 A. YES.

14 Q. WHAT HAPPENED NEXT?

15 A. GRAYSON HILDERBRAND APPROACHED ME.

16 Q. WHAT DID HE SAY TO YOU?

17 A. HE SAID WHAT'S GOING ON, ARE YOU QUALIFIED OR ARE YOU NOT.

18 Q. WHAT WAS YOUR RESPONSE?

19 A. I SAID I'M STILL TRYING TO FIGURE IT OUT. I DON'T KNOW
20 WHO TO ASK. I EXPLAINED TO HIM WHAT HAPPENED.

21 Q. WHAT DID HE SAY?

22 A. AND HE ASKED ME TO SHOW HIM THE PAPER THAT WAS WHITED OUT,
23 AND HE SAID, I DON'T KNOW WHY HE DID THIS, GO TAKE IT BACK TO
24 THE SAME GUYS, HAVE THEM SIGN IT. YOU'RE QUALIFIED.

25 Q. WHAT DID YOU DO NEXT?

1 **A.** I WENT TO CHRIS SALAS AND ASKED HIM TO RE-SIGN.

2 (DISPLAYED ON SCREEN.)

3 **Q.** DID YOU EVER TALK TO ANY OF THE OTHER THREE TRAINEES IN
4 YOUR CLASS ABOUT WHO SIGNED OFF ON THEIR PARALLEL TRAINING
5 CHECKLIST?

6 **A.** YES.

7 **Q.** DID THEY TELL YOU WHO HAD?

8 **MR. LAFAYETTE:** OBJECTION, LEADING AND HEARSAY.

9 **THE COURT:** SUSTAINED. BEFORE SHE SAID SHE SAW
10 THINGS.

11 **BY MS. SMALLETS:**

12 **Q.** DID YOU SEE THEIR PARALLEL TRAINING CHECKLIST?

13 **A.** I DID NOT SEE -- WELL, AT THIS POINT IN TIME I HAD NOT
14 SEEN THEIR PARALLEL CHECKLISTS BUT WE HAD DID A FEW OF THE
15 TRAINING, THE THREE OF US TOGETHER, AND THE SAME MAN OR
16 EMPLOYEE SIGNED IT OFF. SO I GUESS AT THAT TIME I SAW IT, I
17 DIDN'T SEE IT -- IT COMPLETED BUT I KNEW THE SAME SIGNATURES
18 WERE ON THEIRS.

19 **Q.** LET'S GO BACK TO EXHIBIT 83 AGAIN. THERE IS AN ENTRY ON
20 MAY 9TH. DO YOU SEE THAT?

21 **A.** YES.

22 **Q.** DO YOU RECALL WHEN THAT WAS DURING THE COURSE OF YOUR
23 TRAINING?

24 **A.** I'M PRETTY SURE -- I THINK IT WAS MY FIRST DAY IN MY
25 PARALLEL TRAINING WITH CHRIS SALAS. SO THAT MEANS WE WERE IN

1 THE CLASSROOM TRAINING WITH JEFF. NOW WE ARE DOING THE
2 OUTSIDE TRAINING WITH OUR ONE-ON-ONE TRAINER. THIS WAS MY
3 FIRST DAY WITH MY -- DOING THIS.

4 Q. WHO WROTE THAT ENTRY?

5 A. IAN CHAMBERLAIN.

6 Q. DO YOU KNOW WHAT HIS JOB WAS?

7 A. HE WAS THE SUPERVISOR ON THAT PARTICULAR SHIFT.

8 Q. DO YOU RECALL THE SITUATION THAT LED TO THIS PD LOG ENTRY?

9 A. YES.

10 Q. TELL US HOW THAT BEGAN.

11 A. SO WHILE TRAINING WITH CHRIS SALAS, AND I BELIEVE AT THE
12 MOMENT WE WERE ALSO WITH ASHTON, MY GOGGLES BROKE IN THE BACK,
13 THE BAND THAT HOLDS THEM ON. SO I ASKED THEM WHERE DO - MY
14 GOGGLES BROKE, WHERE DO I GET A NEW PAIR. AT THIS TIME WE ARE
15 WERE BACK IN THE OFFICE. CHRIS SAID I'LL SHOW YOU WHERE TO
16 GET THE GOGGLES.

17 Q. AND DID -- WHAT DID YOU DO NEXT?

18 A. CHRIS, MY TRAINER, HE TOOK ME OUT TO A SHED. WE WERE
19 WALKING EN ROUTE TO GET EXTRA SUPPLIES.

20 Q. WERE YOU IN AN AREA IN WHICH YOU WERE SUPPOSED TO HAVE
21 GOGGLES?

22 A. SO, IN ALL AREAS OF THE REFINERY, WE ARE -- WE MUST HAVE
23 GOGGLES ON OUR HARD HAT, BUT THERE ARE CERTAIN AREAS OF THE
24 REFINERY OUR GOGGLES ARE REQUIRED TO BE WORN.

25 Q. AND WHICH ONE OF THOSE AREAS WERE YOU IN?

1 **A.** WE WERE JUST IN THE REFINERY. SO WE NEEDED THE GOGGLES ON
2 THE TOP OF OUR HARD HAT.

3 **Q.** DID YOU HAVE A RADIO WITH YOU AT THAT TIME?

4 **A.** NO.

5 **Q.** WHY NOT?

6 **A.** PRIOR TO THIS TRAINING -- WE WERE TRAINING WITH JEFF
7 FISCHER. THE PLANT WAS -- WAS IN SHUTDOWN. ALL OF THE
8 EQUIPMENT IS DOWN. AND THERE IS A LOT OF CONTRACTORS, MORE
9 THAN USUAL, SO THERE WASN'T ENOUGH RADIOS WHEN WE WERE AT
10 TRAINING. SO, DURING THAT TIME WE WERE INSTRUCTED AS LONG AS
11 OUR TRAINER HAD A RADIO, THEN UNLESS THERE WAS RADIOS
12 AVAILABLE, THAT WAS OKAY. CHRIS -- I WAS WITH MY TRAINER. HE
13 KNEW I DIDN'T HAVE A RADIO BUT HE DID.

14 **Q.** WHAT HAPPENED NEXT WHEN YOU'RE WALKING TOWARD THE SHED
15 WITH CHRIS SALAS?

16 **A.** IAN CHAMBERLAIN, WHO I HAD NEVER MET YET, HE CAME UP TO
17 US.

18 **Q.** WHAT DID MR. CHAMBERLAIN SAY?

19 **A.** AND HE SAID WHAT THE F ARE YOU DOING OUT HERE WITHOUT YOUR
20 F-ING GOGGLES? WHERE IS YOUR F-ING RADIO?

21 **Q.** DID HE SAY ANYTHING ELSE?

22 **A.** NOT AT THAT POINT. I STARTED TO EXPLAIN WHY, THAT WE WERE
23 EN ROUTE. BUT BEFORE I COULD EVEN FINISH MY BE SENTENCE, HE
24 SAID, WELL, LIKE, IF YOU WANT TO BE AN F-ING OPERATOR, I'M
25 GOING TO TREAT YOU LIKE A F-ING OPERATOR.

1 Q. WHAT HAPPENED NEXT?

2 A. I THINK HE SCREWS WALKED AWAY AND ME AND CHRIS -- CHRIS
3 APOLOGIZE HAD TO ME HE SAID SORRY THAT WAS MY FAULT AND WE
4 WENT TO GET THE GOGGLES.

5 Q. DID YOU TALK TO MR. CHAMBER LAND ABOUT THIS IN AT ANY
6 OTHER POINT DURING THAT DAY?

7 A. LATER -- NOT THAT MUCH LONGER IN THE DAY HE WAS IN HIS
8 OFFICE.

9 Q. DID YOU GO SPEAK TO HIM?

10 A. YEAH.

11 Q. WHAT DID YOU SAY?

12 A. I WANTED TO TELL HIM THAT I KNEW WE NEEDED GOGGLES WITH
13 YOU BUT I WAS GOING TO GET A PAIR.

14 Q. WHAT WAS HIS RESPONSE?

15 A. HE TOLD ME IT'S NOT ACCEPTABLE AND HE NEEDED TO DOCUMENT
16 IT.

17 Q. WERE YOU AWARE OF ANY OTHER OPERATORS WHO DID NOT HAVE
18 RADIOS WITH THEM DURING THIS TIME PERIOD?

19 A. YES.

20 Q. AND DID YOU SEE THEM?

21 A. YES.

22 Q. WHICH OPERATORS DID YOU SEE WHO DIDN'T HAVE RADIOS?

23 A. JUST ME AND THE OTHER NEW HIRES IN TRAINING WHEN WE WERE
24 TRAINING WE OFTEN WENT OUT -- NOT ALONE WITHOUT RADIOS BUT
25 WITH A TRAINER.

1 Q. DID YOU EVER SEE -- DID YOU EVER WITNESS MR. CHAMBERLAIN
2 HAVE ANY INTERACTIONS WITH OTHER OPERATORS WHO WERE NOT
3 WEARING PERSONAL PROTECTIVE EQUIPMENT?

4 A. I DID JUST ONCE FAIRLY SHORTLY AFTER THIS.

5 Q. CAN YOU DESCRIBE THAT FOR US?

6 A. SOMEBODY WALKED OUT WITHOUT THEIR EAR PROTECTION HE WAS
7 LIKE HEY MAN WHERE'S YOUR EAR PROTECTION. AND THE GUY TURNED
8 AROUND GOT IT, AND THAT IS ALL I SAW HAPPEN.

9 Q. DID YOU EVER WITNESS ANY OTHER OPERATORS LEAVE THE OFFICE
10 AREA WITHOUT HAVING THE PROPER PROTECTIVE EQUIPMENT ON THEM?

11 A. HERE AND THERE.

12 Q. AND WHAT EQUIPMENT DID YOU SEE PEOPLE MISSING?

13 A. USUALLY PEOPLE WOULD FORGET THEIR EAR PLUGS.

14 Q. AND DID YOU OBSERVE MANAGERS RESPONDING TO THAT SITUATION?

15 A. YES.

16 Q. WHAT DID THE MANAGERS DO?

17 A. JUST GIVE THEM A FRIENDLY REMINDER.

18 Q. NOW, I WOULD LIKE TO TURN YOUR ATTENTION TO THE TIME THAT
19 YOU REPORTED TO CAMERON CURRAN.

20 DO YOU RECALL WHEN HE BECAME YOUR SUPERVISOR?

21 A. I THINK IN THE BEGINNING OF JUNE.

22 Q. OKAY. WHAT WERE YOUR INITIAL INTERACTIONS WITH MR. CURRAN
23 LIKE?

24 A. THEY WERE MOSTLY FINE.

25 Q. DID MR. CURRAN MAKE ANY COMMENTS THAT YOU FOUND OFFENSIVE?

1 **A.** HE JUST -- I HE KIND OF REPEATEDLY ASKED ME WHY I WANTED
2 TO WORK THERE. AT FIRST I DIDN'T REALLY FIND IT OFFENSIVE BUT
3 WHEN HE ASKED ME MORE THAN ONCE, I FOUND IT OFFENSIVE.

4 **Q.** WHY DID YOU FIND IT OFFENSIVE WHEN HE ASKED YOU MORE THAN
5 ONCE?

6 **A.** I KIND OF JUST FELT LIKE I WAS STILL BEING INTERVIEWED AND
7 I ALREADY ANSWERED SO I DIDN'T KNOW WHY HE KEPT ASKING ME WHY
8 I WANTED TO WORK THERE.

9 **Q.** DID HE SAY ANYTHING ELSE THAT YOU FOUND OFFENSIVE?

10 **A.** ALSO WITH THE FIRST TIME HE ASKED ME IF I WAS SCARED TO
11 WORK THERE I WASN'T TOO OFFENDED BUT WHEN HE ASKED ME MULTIPLE
12 TYPES I FOUND IT OFFENSIVE.

13 **Q.** WHY WAS THAT?

14 **A.** JUST BECAUSE I DIDN'T THINK I EVER SHOWED ANY -- I DON'T
15 THINK I EVER DID ANYTHING THAT WOULD MAKE HIM THINK I WAS
16 SCARED, SO I DIDN'T UNDERSTAND WHY HE ASKED ME AGAIN AND AGAIN
17 IF I WAS SCARED.

18 **Q.** AND DID HE SAY ANYTHING ELSE THAT YOU FOUND OFFENSIVE?

19 **A.** IN MY WHOLE TIME WITH CAMERON?

20 **Q.** YES.

21 **A.** WHEN WE HAD THIS SPILL AT THE SULFURIC ACID TANK, HE TOLD
22 ME ARE YOU SURE -- LIKE, BASICALLY, HE WAS THINKING I WAS
23 SCARED ARE YOU SURE YOU WANT TO WORK HERE? BECAUSE IF THAT
24 TANK JUST STARTS SPEWING AS I HAD YOU ARE GOING TO HAVE TO GO
25 CLOSE IT. I DIDN'T FIND IT OFFENSIVE BUT IS....

1 Q. DID THAT --

2 A. THAT WHOLE SITUATION WAS OFFENSIVE.

3 Q. WE WILL TALK ABOUT THAT IN A MOMENT. DID HE ASK YOU ANY
4 QUESTIONS ABOUT YOUR FAMILY MEMBERS?

5 A. HE ASKED ME WHAT LIKE MY HUSBAND THOUGHT OF ME WORKING AT
6 A REFINERY AND IF THAT DIDN'T BOTHER HIM AND IT SEEMED STRANGE
7 TO HIM.

8 Q. I AM SORRY. JUST SO I'M CLEAR. WHO GOES THE HIMS IN THAT
9 SENTENCE? SO CAMERON ASKED YOU --

10 A. HE ASKED ME WHAT MY HUSBAND THOUGHT ABOUT ME WORKING AT A
11 REFINERY AND WHAT HE THOUGHT ABOUT ME WORKING NIGHTS, I THINK.

12 Q. HOW MANY TIMES DID HE ASK YOU THAT?

13 A. MAYBE TWICE.

14 Q. LET'S TAKE A LOOK AT EXHIBIT 19.

15 CAN YOU TELL US WHAT THAT IS?

16 A. THIS IS MIGHT FOURTH 30-DAY REVIEW.

17 Q. WHO GAVE YOU THAT REVIEW?

18 A. CAMERON.

19 MS. SMALLETS: I BELIEVE THIS IS IN EVIDENCE, SO MAY
20 WE SHOW IT.

21 THE COURT: ANY OBJECTION?

22 MR. LAFAYETTE: NO, YOUR HONOR.

23 THE COURT: ADMITTED.

24 (PLAINTIFF'S EXHIBIT 19 RECEIVED IN EVIDENCE)

25 (DISPLAYED ON SCREEN.)

1 **BY MS. SMALLETS:**

2 **Q.** DID YOU HAVE A CONVERSATION WITH MR. CURRAN ABOUT THAT
3 REVIEW?

4 **A.** YES.

5 **Q.** DO YOU RECALL WHAT HE SAID TO YOU DURING THAT
6 CONVERSATION?

7 **A.** HE SAID -- I THINK HE SAID EVERYTHING WAS LOOKING GOOD.

8 **Q.** LET'S TAKE A LITTLE BIT ABOUT THE SULFURIC ACID TANK.

9 WERE THERE ANY ISSUES WITH THE SULFURIC ACID TANK DURING
10 THE TIME THAT YOU WERE REPORTING TO MR. CURRAN IN JUNE?

11 **A.** YES.

12 **Q.** WHAT WAS THE ISSUE? OR ISSUES?

13 **A.** THE ISSUES STARTED WITH THE SIGHT GLASS AND THE PRESSURE
14 GAUGE NOT MATCHING UP SO THEY WERE NOT WORKING. AND YOU --

15 **Q.** TELL US WHAT A SIGHT GLASS IS.

16 **A.** IT IS JUST SOMETHING YOU LOOK AT SO YOU CAN SEE THE LEVEL
17 OF THE TANK.

18 **Q.** WHAT IS A PRESSURE GAUGE?

19 **A.** AND THE PRESSURE GAUGE READS THE PRESSURE.

20 **Q.** AND DID YOU -- WHAT DID YOU NOTICE ABOUT THEM?

21 **A.** THEY WERE NOT -- USUALLY THEY RELY ON BOTH SO THAT THEY
22 SHOULD HAVE SIMILAR READINGS. THAT WAY WHEN THEY FILL THE
23 TANK, THEY KNOW FOR SURE THAT IT'S -- THEY CAN'T JUST RELY ON
24 ONE BECAUSE THAT ISN'T SAFE, SO THEY HAVE TWO. THEY WEREN'T
25 READING THE SAME, SO WE KNEW THAT ONE OF THEM WASN'T WORKING.

1 Q. WHAT DID YOU DO WHEN YOU NOTICED THIS?

2 A. I TOLD CAMERON. WE ACTUALLY TRIED TO UNPLUG IT AND I ALSO
3 WROTE IT IN MY SHIFT REPORT.

4 Q. LET'S TAKE A LOOK AT EXHIBIT 85. CAN YOU TELL US WHAT
5 THESE ARE?

6 A. SIGHT GLASS AND LEVEL INDICATOR. MAYBE THE LEVEL GATER
7 WASN'T CALLED A PLEASURE GAUGE IT WAS A LONG TIME AGO. TWO
8 DIFFERENT DEVICES.

9 Q. TELL US WHAT THIS IS.

10 A. THIS IS OUR SHIFT TURNAROUND WHERE WE TAKES ON ANY
11 INFORMATION TO THE ONCOMING -- THE ONCOMING OPERATOR ABOUT
12 WHAT IS GOING ON IN THE UNIT AND ANY CHANGES THAT HAVE BEEN
13 MADE IN THE UNIT.

14 Q. IS THIS ONE THAT YOU PREPARED ON JUNE 9TH?

15 A. YES.

16 Q. AND DID YOU REPORT ANYTHING ABOUT THE WITH SIGHT GLASS AND
17 LEVEL INDICATOR ON THE SULFURIC ADD SITUATED TANK?

18 A. I REPORTED THEY WEREN'T PROPERLY FUNCTIONING.

19 Q. DID YOU REPORT THAT ON ANY -- ON YOUR JUNE 18TH SHIFT
20 REPORT AS WELL?

21 A. YES.

22 Q. DID YOU REPORT THAT ON SEVERAL OTHER SHIFT REPORTS DURING
23 THE MONTH OF JUNE?

24 A. YES. AND I -- ALSO FILLED OUT A WORK TICKET.

25 Q. OKAY. WHAT IS A WORK TICKET?

1 **A.** JUST SOMETHING THAT YOU SEND TO EUROPE MANAGEMENT OF A
2 PIECE OF EQUIPMENT THAT NEEDS TO BE FIXED.

3 **Q.** DURING THIS TIME PERIOD DID YOU HAVE ANY CONVERSATIONS
4 WITH ANYONE OTHER THAN MR. CURRAN ABOUT THE SULFURIC ACID
5 TANK?

6 **A.** JUST THE OTHER ON COMING OPERATORS IN HP-2 DURING THE
7 SHIFT TURNAROUND, AND I -- MIKE CUTSHAW HELPED ME WRITE THE
8 WORK TICKET. YEAH. HE HELPED ME WRITE THE WORK TICKET. IT
9 WAS MY FIRST WORK TICKET THAT I WROTE, SO HE SHOWED ME HOW TO
10 DO THAT.

11 **Q.** DURING THIS TIME PERIOD DID YOU HELP FILL THE SULFURIC
12 ACID TANK?

13 **A.** I TALKED TO MORE PEOPLE, IF YOU WANT.

14 **Q.** SURE.

15 **A.** I ALSO TALKED TO A TRUCK DRIVER. HE IS A CONTRACTOR HE
16 COMES FROM OUTSIDE TO FILL THE TANK.

17 **Q.** WHAT DID HE TELL YOU -- WHAT DID HE SAY?

18 **A.** HE SAID HE WAS --

19 **MR. LAFAYETTE:** OBJECTION --

20 **THE COURT:** OVERRULED.

21 **THE WITNESS:** HE SAID HE REALLY UNCOMFORTABLE FILLING
22 IT THIS WAY, WITHOUT THE TWO GAUGES OF THE LEVEL. AND HE TOLD
23 ME THAT IT'S BEEN BROKEN, YOU KNOW, FOR SO LONG AND IT NEEDS
24 TO GET FIXED.

25 **MR. LAFAYETTE:** OBJECTION, HEARSAY. MOVE TO STRIKE.

1 **THE COURT:** FOR WHAT PURPOSE WAS THAT OFFERED?

2 **MS. SMALLETS:** NOTICE TO THE PLAINTIFF AND HER
3 KNOWLEDGE AS SHE IS MOVING FORWARD.

4 **THE COURT:** ALL RIGHT. THAT'S THE ONLY PURPOSE FOR
5 WHICH IT IS ALLOWED. I DON'T HAVE A TRUCK DRIVER HERE, SO WE
6 DON'T KNOW WE CAN'T TEST WHETHER HE ACTUALLY SAID THAT, BUT
7 CERTAINLY IN TERMS OF WHAT SHE IS NOTIFYING THE COMPANY ABOUT
8 HER OBSERVATIONS. GO AHEAD.

9 **BY MS. SMALLETS:**

10 **Q.** I BELIEVE YOU SAID EARLIER YOU TRIED TO FIX THE SIGHT
11 GLASS WITH MR. CURRAN?

12 **A.** YES. SO AT SOME POINT IN TIME WHEN I TELL CAMERON ABOUT
13 THE SIGHT GLASS, HE TELLS ME THAT IT HAS HAPPENED BEFORE AND
14 POSSIBLY ME AND HIM CAN UNPLUG IT, AND THAT HE THINKS IT IS
15 THE SIGHT GLASS THAT IS NOT FUNCTIONING.

16 **Q.** DID YOU -- DID THE TWO OF YOU TRY TO FIX IT?

17 **A.** UH-HUH.

18 **Q.** DID YOU... WEAR ANY PROTECTIVE EQUIPMENT WHEN YOU DID
19 THAT?

20 **A.** YES.

21 **Q.** CAN YOU DESCRIBE THAT PROTECTIVE EQUIPMENT?

22 **A.** RUBBER SUIT. AND WE COULD NOT FIX IT.

23 **Q.** OKAY. AND I WOULD LIKE TO --

24 **A.** AND I ALSO DID BRING IT UP IN SAFETY MEETINGS ONCE OR
25 TWICE WHEN WE TALK ABOUT WHAT CHANGES ARE BEING -- HAPPENING

1 IN OUR UNIT. AND IN THIS MEETING ALL THE MANAGERS ARE THERE
2 AND ALL THE OPERATORS IN ALL THE DIFFERENT PLANTS.

3 Q. LET'S TURN YOUR ATTENTION TO JULY 4TH.

4 DID -- DID YOU -- DID ANYTHING HAPPEN WITH RESPECT TO THE
5 SULFURIC ACID TANK ON JULY 4TH?

6 A. ON JULY 4TH, YES.

7 Q. HOW DID YOU LEARN ABOUT THAT?

8 A. IT -- I FIRST LEARNED ABOUT IT -- I WAS SITTING AT MY DESK
9 AND I OVERHEARD A TRUCK DRIVER WHO CAME IN PERSON, AND HIM AND
10 CAMERON WERE HAVING A CONVERSATION, A DISAGREEMENT.

11 Q. WAS THAT THE SAME TRUCK DRIVER THAT YOU HAD TALKED TO
12 ABOUT THE SULFURIC ACID OR A DIFFERENT ONE?

13 A. DIFFERENT ONE.

14 Q. WHAT DO YOU RECALL THE TRUCK DRIVING TELLING MR. CURRAN?

15 A. OVERFILLED ON THE PREVIOUS SHIFT AND THAT HE NEEDED TO
16 REPORT IT AND THEY WERE -- THE LAST THING I HEARD THE TRUCK
17 DRIVER SAY IS WELL, JUST SO YOU KNOW, I'M REPORTING IT TO MY
18 COMPANY BECAUSE HE IS A CONTRACTOR, HE COMES IN FROM OUTSIDE.

19 Q. DID YOU HEAR WHAT MR. CURRAN SAID IN RESPONSE?

20 A. NO.

21 Q. OKAY. WHAT DID YOU DO NEXT?

22 A. I WENT OUT TO START MY ROUNDS BUT FIRST I WENT TO THE
23 SULFURIC ALWAYS SITUATED TANK TO SEE WHAT IT WAS THAT THEY
24 WERE TALKING ABOUT, WE OBSERVED THE AREA.

25 Q. WHAT DID YOU SEE AT THE SULFURIC ACID TANK?

1 **A.** I SAW LIKE TWO WET SPOTS. THEY ARE NOT LIKE PUDDLES
2 BECAUSE THEY ARE ALREADY BEING ABSORBED WITH SOME MATERIAL.
3 BUT I SAW TWO WET SPOTS AND THEN I SAW SMALL DRIP AT THE SIGHT
4 GLASS.

5 **Q.** DID YOU LOOK AT WHAT THE LEVEL INDICATOR AND SIGHT GLASS
6 WERE SAYING AT THAT TIME?

7 **A.** OH, YES. THEY WERE BOTH OVER A HUNDRED -- WELL, THE SIGHT
8 GLASS WAS ALL THE WAY FULL AND THE GAUGE READS A HUNDRED AND
9 THERE WAS MORE SPACE AND IT WAS OVER.

10 **Q.** AND WHAT WAS YOUR REACTION WHEN YOU SAW THAT?

11 **A.** I WAS UPSET THAT THE PREVIOUS OPERATOR DIDN'T LET ME KNOW
12 AND THAT THERE WAS NO -- IT WAS NOT ROPED OFF. DID YOU SAY
13 WHAT WAS MY REACTION OR WHAT DID YOU DO NEXT?

14 **Q.** WHAT WAS YOUR REACTION?

15 **A.** THAT WAS MY REACTION. I WAS KIND OF ALARMED THAT THIS HAD
16 HAPPENED AND THIS IS MY UNIT AND NO ONE INFORMED ME.

17 **Q.** WHAT YOU DO WHAT DID YOU DO NEXT?

18 **A.** I WENT BACK TO MY COMPUTER TO LOOK AT THE MSDS FOR
19 SULFURIC ACID AND LOOK AT THE PROCEDURE AND ALSO LET CAMERON
20 KNOW I NOTICED THE WET SPOTS.

21 **Q.** WHAT DID YOU TELL MR. CURRAN?

22 **A.** I TOLD HIM THAT, YOU KNOW, THERE'S STILL SOME WET SPOTS
23 OUT. THERE LOOKS LIKE THERE IS A SMALL LEAK. HE SAID LET'S
24 GO TAKE A LOOK AT IT.

25 **Q.** OKAY. AND DID THE TWO OF YOU GO TAKE A LOOK AT IT?

1 **A.** YES.

2 **Q.** AND DID YOU HAVE ANY CONVERSATIONS WITH MR. CURRAN WHILE
3 YOU WERE LOOKING AT IT?

4 **A.** AT THAT TIME HE TOLD ME WHAT ARE YOU SO CONCERNED ABOUT,
5 IT IS STILL IN THE DIKE AREA. IT IS NOT A BIG DEAL. AND I
6 SAID WELL, I JUST READ THE MSDS AND THE CONTRACTORS ARE
7 NEARBY, AND I THINK IT MIGHT BE A GOOD IDEA TO ROPE OFF THE
8 AREA JUST SO THAT THEY KNOW THERE IS SOMETHING HAZARDOUS.
9 THAT IS HAZARDOUS. HE KEPT ASKING ME IF I WAS SCARED. I SAID
10 I WASN'T SCARED. I WANTED TO MAKE SURE EVERYONE IS PROTECTING
11 THEIR HEALTH; MAYBE NOT NOW, BUT IT CAN AFFECT THEM IN THE
12 FUTURE.

13 **Q.** WHAT'S A MSDS?

14 **A.** MATERIAL SAFETY DATA SHEET.

15 **Q.** WHAT INFORMATION DOES THAT CONTAIN?

16 **A.** IT TELLS YOU THE HAZARDS OF THE CHEMICAL.

17 **Q.** AND YOU SAID YOU LOOKED UP A PROCEDURE AS WELL? WHAT
18 PROCEDURE DID YOU LOOK UP?

19 **A.** I LOOKED UP THE PROCEDURE FOR HOW -- THE RESPONSE TO A
20 LOSS OF CONTAINMENT.

21 **Q.** AND DO YOU RECALL WHAT THE APPROPRIATE RESPONSE TO A LOSS
22 OF CONTAINMENT OF SULFURIC ACID IS?

23 **A.** THE MAIN THING I REMEMBER IS THAT WE WERE SUPPOSED TO
24 REPORT IT TO THE SAFETY -- HEAD OF SAFETY ON THE REFINERY.
25 THAT WAS THE FIRST STEP. AND I JUST WASN'T SURE WHY -- WHAT

1 IT WOULD HURT TO REPORT IT.

2 Q. OKAY. WHAT DID YOU DO NEXT?

3 A. WELL, WE KEEP GOING BACK AND FORTH ABOUT IT. SO I REALLY
4 WANTED TO TAPE OFF THE AREA JUST TO NOTIFY PEOPLE IN CASE --
5 YOU NEVER KNOW IF SOMEBODY IS GOING TO -- THERE IS NOT
6 SUPPOSED TO BE OTHER PEOPLE JUST DOING THINGS IN YOUR UNIT,
7 BUT YOU DON'T KNOW. SO I WANTED TO ROPE IT OFF.

8 HE SAID NO. AND HE ALSO SAID NO TO CALLING THE HEAD OF
9 SAFETY. SO I WENT BACK TO THE COMPUTER TO LOOK UP AGAIN WHAT
10 THE PROCEDURE WAS. AND ALSO IN THAT TIME I WROTE IT IN MY
11 SHIFT REPORT.

12 Q. DID YOU HAVE ANY CONVERSATION -- I AM SORRY. WHAT DID YOU
13 WRITE IN YOUR SHIFT REPORT AT THAT TIME?

14 A. I WROTE THAT TODAY I NOTICED WET SPOTS IN THE SULFURIC
15 ACID AREA. THERE WAS A SMALL LEAK FROM THE SIGHT GLASS AND
16 LEARNED IT OVERFILLED ON THE PREVIOUS NIGHT.

17 Q. DID YOU HAVE ANY CONVERSATIONS WITH MR. CURRAN THAT --
18 LATER THAT DAY?

19 A. LATER THAT DAY CAMERON COMES UP TO ME AND SAYS, CAN WE GO
20 FOR A RIDE? THIS IS AFTER I WROTE IT ANY MY SHIFT REPORT. I
21 SAID, YES.

22 WE GO AND HE TAKES ME IN HIS TRUCK. THE SULFURIC ACID
23 TANK IS ONE OF THE FARTHER THINGS FROM WHERE OUR OFFICE IS.
24 HE TAKES ME IN HIS TRUCK, DRIVES ME, PULLS UP TO WHERE THE
25 SULFURIC ACID TANK IS AND SAYS, LOOK, I SAW YOUR SHIFT REPORT.

1 ARE YOU TRYING TO GET PEOPLE IN TROUBLE? I SAID NO. HE'S
2 LIKE, YOU NEED TO TAKE IT OFF YOUR SHIFT REPORT. THE OTHER
3 GUYS SHOULD HAVE REPORTED IT BUT THEY DIDN'T, SO NOW WE CAN'T
4 REPORT IT, AND YOU'RE GOING TO GET PEOPLE IN TROUBLE IF YOU
5 REPORT IT.

6 Q. DID YOU SAY ANYTHING TO HIM IN RESPONSE?

7 A. I JUST EXPLAINED TO HIM THAT I DIDN'T REALLY WANT TO GET
8 ANYONE IN TROUBLE BUT I WASN'T COMFORTABLE LEAVING THE
9 SITUATION LIKE THAT. I DIDN'T FEEL LIKE IT WAS SAFE. AND I
10 FELT EITHER THOSE GUYS MIGHT GET IN A LITTLE TROUBLE OR, YOU
11 KNOW, MAYBE WE CAN PROTECT SOMEBODY FROM SOMETHING THAT COULD
12 BE HAZARDOUS.

13 Q. HOW DID -- HOW DID THAT CONVERSATION -- WAS THERE A
14 RESOLUTION REACHED DURING THAT CONVERSATION?

15 A. THAT WAS THE SAME CONVERSATION -- YEAH.

16 THE RESOLUTION WAS HE SAID, WELL, YOU KNOW, HE -- HE KIND
17 OF CONVINCED ME TO TAKE IT OFF THE SHIFT REPORT. AND HE SAID
18 WE'LL CLEAN IT UP TOGETHER. SO I'LL SHOW YOU HOW THE PROPER
19 WAY TO CLEAN THIS IS.

20 Q. AND WHAT DID YOU DO NEXT?

21 A. NEXT, HE DROVE ME OVER TO THIS AREA WHERE WE CAN GRAB
22 OYSTER SHELLS WHICH ARE LIKE THESE REALLY BIG BAGS.

23 YOU KNOW, HE'S STILL FRUSTRATED BECAUSE I DIDN'T TELL HIM
24 THAT I WOULD TAKE IT OFF. BUT I WAS FEELING INTIMIDATED. AND
25 HE SAYS GO -- THERE'S THE SHELLS, GO GRAB THEM. AND I, AT

1 THIS POINT, DIDN'T KNOW WHAT THE SHELLS ARE OR, YOU KNOW. SO
2 WE GRAB THE SHELLS, LOAD THEM INTO THE TRUCK --

3 Q. AND THEN WHAT HAPPENS NEXT?

4 A. NEXT, HE HEADS OVER THERE, LIKE HE IS GOING TO SHOW ME
5 WHAT TO DO. AND I WAS LIKE, DO WE NEED PROPER LIKE PROTECTIVE
6 EQUIPMENT? I JUST READ THE PAPERS, AND I KNEW THAT I NEEDED A
7 RUBBER SUIT, RUBBER GLOVES.

8 Q. WHAT DID HE SAY?

9 A. HE SAID YEAH. HE WAS ANNOYED. SO WE DROVE TO ANOTHER
10 AREA TO GO GET THE PROPER EQUIPMENT ACCORDING TO THE
11 PROCEDURES.

12 Q. THEN WHAT HAPPENED NEXT?

13 A. THEN WHAT HAPPENED NEXT IS IT WAS THE 4TH OF JULY, SO THIS
14 AREA WHERE WE GET EXTRA EQUIPMENT WAS CLOSED, AND THEY DIDN'T
15 HAVE ALL THE RIGHT EQUIPMENT FOR ME.

16 Q. AND --

17 A. SO I THINK IT WAS LIKE THEY DIDN'T HAVE THE RIGHT RUBBER
18 BOOT SIZE -- I CAN'T REMEMBER -- THE RIGHT SIZE GLOVES.

19 Q. WHAT DID MR. CURRAN SAY --

20 A. HE SAID HE WOULD JUST DO IT. AND THEN HE SAID, I BET YOU
21 DON'T HAVE A PROBLEM WITH ME DOING IT.

22 Q. DID YOU RESPOND TO HIM?

23 A. I TOLD HIM THAT ACTUALLY -- BECAUSE HE WAS GOING TO DO IT
24 WITHOUT ALL THE RIGHT PPE. AND I SAID I WON'T DO IT WITHOUT
25 EVERYTHING THAT THE PROCEDURE SAYS, WHICH I THINK WAS

1 EITHER -- I WAS MISSING THE GLOVES -- OR I CAN'T REMEMBER.

2 Q. SO -- SORRY.

3 DID -- SO CAMERON SAID HE WOULD DO IT. DID YOU RESPOND TO
4 HIM?

5 A. YEAH. I TOLD HIM THAT I ACTUALLY PREFER THAT HE DOESN'T
6 DO IT, BUT HE'S THE SUPERVISOR, NOT ME. BUT IF HE'S ASKING MY
7 OPINION I WOULDN'T LIKE HIM TO DO IT WITHOUT THE RIGHT PPE.

8 Q. THEN WHAT HAPPENS?

9 A. THEN WE ARE STILL IN THE TRUCK. HE -- BASICALLY, HE JUST
10 THREW DOWN THE OYSTER SHELLS. HE TOLD ME HE WASN'T REPORTING
11 IT.

12 Q. DID YOU MAKE ANY CHANGES TO YOUR SHIFT REPORT?

13 A. YES. SO I THINK HE APPROACHED ME AGAIN, YOU KNOW, YOU
14 REALLY NEED TO TAKE IT OFF.

15 SO INSTEAD OF TAKING IT ALL THE WAY OFF, I JUST WROTE THAT
16 IT WAS OVER A HUNDRED. SO THAT KIND OF, YOU KNOW, IT'S
17 OVERFULL.

18 Q. LET'S TAKE A LOOK AT EXHIBIT 86, WHICH WAS PREVIOUSLY
19 ADMITTED INTO EVIDENCE.

20 TAKE A LOOK AT THE FIRST PAGE OF THAT.

21 (DISPLAYED ON SCREEN.)

22 IS THAT -- CAN YOU TELL US WHAT THAT IS?

23 A. THE SHIFT TURNOVER.

24 Q. WHAT -- IS THAT -- WHO PREPARED THAT SHIFT TURNOVER?

25 A. I DID.

1 Q. WHAT IS THE DATE?

2 A. JULY 4, 2016.

3 Q. DID YOU MAKE ANY NOTATIONS ON THIS DOCUMENT REGARDING THE
4 SULFURIC ACID TANK?

5 A. SULFURIC ACID TANK, SIGHT GLASS AND HAND-LEVEL INDICATOR
6 READING OVER A HUNDRED.

7 Q. THAT'S UNDER SURVEILLANCE FINDS, JUST SO WE CAN ALL FIND
8 IT.

9 DID YOU REPORT -- TAKE A LOOK AT THE REST OF EXHIBIT 86.
10 DID YOU REPORT ANY ISSUES WITH THE SULFURIC ACID TANK IN JULY,
11 THE REST OF JULY?

12 A. I JUST KEPT REPORTING IT WAS STILL OVER A HUNDRED BECAUSE
13 TYPICALLY THEY DIDN'T WANT IT NEAR A HUNDRED.

14 (PAUSE IN THE PROCEEDINGS.)

15 Q. DO YOU KNOW WHAT ALERT ESP MEANS?

16 SORRY. JUST SO WE ARE CLEAR, WE ARE ON THE JULY 15TH ONE.
17 AND IT SAYS THAT THE ACID -- WHAT'S THE LEVEL OF THE ACID
18 TANK. SO WE ARE ALL LOOKING AT THE SAME THING.

19 A. I THINK, BUT I CAN'T REMEMBER FOR SURE ANYMORE -- IS IT
20 ENVIRONMENTAL SAFETY PERSONNEL, ALERT THEM, NOTIFY THEM? BUT
21 IT'S BEEN A LONG TIME. I DON'T KNOW FOR SURE WHAT IT STANDS
22 FOR.

23 Q. OKAY.

24 SO, EVERYTHING YOU'VE BEEN JUST DESCRIBING REGARDING YOUR
25 INTERACTIONS WITH MR. CURRAN AND THE SULFURIC ACID SPILL, CAN

1 YOU TELL US WHEN THOSE TOOK PLACE?

2 **A.** JULY, BEGINNING OF JULY.

3 **Q.** WERE THEY ON -- OVER WHAT COURSE OF TIME?

4 **A.** THE ACID SPILL?

5 **Q.** YOUR CONVERSATIONS WITH CURRAN ABOUT IT.

6 **A.** MOSTLY ON THE 4TH OF JULY AND LEADING UP TO THE 4TH OF
7 JULY.

8 **Q.** DID YOU HAVE ANY CONVERSATIONS WITH MR. CURRAN ABOUT THE
9 ACID SPILL DURING THE REMAINDER OF THE WEEK OF THE JULY 4TH?

10 **A.** I'M NOT SURE IF IT WAS THAT WEEK OR NOT.

11 **Q.** WHAT IS THE NEXT CONVERSATION YOU HAD WITH MR. CURRAN
12 ABOUT THE ACID SPILL?

13 **A.** THE NEXT ONE I CAN REMEMBER IS WHEN I CAME TO HIM ABOUT
14 THE BAKER TANK.

15 **Q.** DID YOU TALK TO ANYONE ELSE ABOUT THE SPILL IN THE
16 SULFURIC ACID TANK DURING JULY 4TH OR THE NEXT COUPLE OF DAYS
17 AFTERWARD?

18 **A.** YES. I TALKED TO THE ONCOMING OPERATORS. SO I DEFINITELY
19 LET THEM KNOW WHAT HAPPENED EVEN THOUGH IT WASN'T REALLY
20 DETAILED IN THE SHIFT REPORT. I TOLD THEM THAT THEY DIDN'T
21 WANT IT IN THE SHIFT REPORT BUT I EXPLAINED WHAT HAPPENED.

22 **Q.** YOU WERE HERE WHEN MR. CURRAN TESTIFIED, RIGHT?

23 **A.** RIGHT.

24 **Q.** DO YOU RECALL HIM SAYING THAT HE HEARD SOMETHING FROM YOU
25 ABOUT DEANNA MARTINEZ WITH RESPECT TO THIS SPILL?

1 **A.** YES.

2 **Q.** DID YOU TALK TO DEANNA MARTINEZ ABOUT THIS SPILL?

3 **A.** NO.

4 **Q.** DID YOU EVER CRY ABOUT THIS SPILL?

5 **A.** I NEVER CRIED AT WORK.

6 **Q.** DID YOU THINK THAT ANYTHING THAT HAPPENED ON JULY 4TH
7 VIOLATED ANY LAWS OR REGULATIONS?

8 **MR. LAFAYETTE:** OBJECT --

9 **THE COURT:** OVERRULED, TO THE EXTENT THERE WAS AN
10 OBJECTION ALMOST MADE. HER OPINION ON THIS TOPIC IS
11 IMPORTANT.

12 **THE WITNESS:** I DID.

13 **BY MS. SMALLETS:**

14 **Q.** WHAT LAWS OR REGULATIONS DID YOU THINK WERE VIOLATED?

15 **A.** WELL, ONE, I KNEW FOR SURE THAT WE WERE NOT FOLLOWING THE
16 SHELL PROCEDURES. AND THEN I THOUGHT -- I WENT BACK TO THE
17 COMPUTER AND I WAS JUST REALLY QUICKLY LOOKING UP WHO WE WERE
18 SUPPOSED TO CONTACT.

19 I THOUGHT MAYBE WE WERE VIOLATING LIKE AN ENVIRONMENTAL
20 PROCEDURE BECAUSE THE SULFURIC ACID WAS THERE AND WE PUT
21 OYSTER SHELLS ON IT, BUT IT STILL KEPT GETTING WET, MEANING IT
22 WAS ABSORBING THE SHELLS AND IT WASN'T NEUTRALIZED. AND THEN
23 THAT WAS ALL THAT THEY DID. SO IT SEEMED LIKE THERE COULD
24 HAVE BEEN MORE.

25 AND THEN I KNEW FOR SURE THAT WE WERE VIOLATING OSHA LAWS

1 BECAUSE I SAW OSHA WHEN WORKING WITH SULFURIC ACID THAT YOU
2 NEED FOR SURE RUBBER GLOVES. AND CAMERON WAS -- MY SUPERVISOR
3 WAS ASKING ME TO DO IT WITHOUT THE PROPER EQUIPMENT, AND HE
4 DID IT WITHOUT.

5 **BY MS. SMALLETS:**

6 **Q.** LET'S TAKE A LOOK AT EXHIBIT 121, WHICH WAS ALSO
7 PREVIOUSLY ADMITTED INTO EVIDENCE.

8 CAN YOU TELL THERE EXHIBIT 121 WHAT DAYS YOU WORKED AFTER
9 JULY 4TH?

10 (DISPLAYED ON SCREEN.)

11 **A.** AFTER JULY 4TH. I WORKED THE 5TH, THE 6TH, AND THE 7TH.

12 **Q.** AND WHEN WAS THE NEXT TIME THAT YOU WORKED?

13 **A.** JULY 15TH, 16TH, 17TH, AND 18TH.

14 **Q.** AND WHY WERE YOU NOT AT WORK BETWEEN THE 7TH AND THE 15TH?

15 **A.** THAT WAS OUR LONG CHANGE. SO WE HAD THOSE DAYS OFF. WE
16 HAVE SEVEN DAYS OFF EVERY MONTH.

17 **Q.** DID YOU HAVE ANY CONVERSATIONS WITH MR. CURRAN ON
18 JULY 15TH, YOUR FIRST DAY BACK AT WORK AFTER THE LONG CHANGE?

19 **A.** I'M NOT SURE EXACTLY WHAT CONVERSATION. I THINK IT
20 STARTED WITH THE OIL MIST CLASSIFIER.

21 **Q.** DO YOU RECALL WHEN IN THIS SHIFT YOU HAD A CONVERSATION
22 WITH MR. CURRAN ABOUT THE OIL MIST CLASSIFIER?

23 **A.** SO WHEN I GOT THERE WITHIN LIKE 10 OR 15 MINUTES AFTER THE
24 SAFETY MEETING WHEN WE WERE HEADING OUT TO THE FIELD, CAMERON
25 IS LIKE, HEY, I WANT TO SHOW YOU SOMETHING. AND HE TAKES ME

1 TO THIS OIL MIST CLASSIFIER THAT'S FULL. AND THEY ARE
2 SUPPOSED TO BE DRAINED OF --

3 Q. LET ME ASK A FEW QUESTIONS --

4 A. SORRY.

5 Q. SO WE MAKE THAT CLEAR.

6 SO TELL US, AS AN HP-2 OPERATOR, WHAT ARE YOU SUPPOSED TO
7 DO WITH THE OIL MIST RECLASSIFIER?

8 A. WE MONITOR IT AND MAKE SURE THAT IT'S NEVER FULL. SO JUST
9 KEEP EMPTYING IT, DRAINING IT.

10 Q. YOU SAID THAT MR. CURRAN TOOK YOU TO LOOK AT IT?

11 A. YEAH.

12 Q. AND WHAT DID YOU SEE WHEN YOU GOT THERE?

13 A. THAT IT WAS FULL.

14 Q. AND DID HE SAY ANYTHING WHEN HE SHOWED YOU IT?

15 A. HE JUST EXPLAINED THAT IT SHOULD BE DRAINED AND THE
16 IMPORTANCE OF WHY TO DRAIN IT.

17 Q. WHAT DID YOU SAY?

18 A. AND I SAID, OKAY. LIKE -- KIND OF LIKE I ALREADY KNEW AND
19 THAT I WOULD BE GETTING TO IT, BUT I HAD JUST ARRIVED.

20 Q. DID YOU -- DID YOU THINK THERE WAS ANYTHING UNUSUAL ABOUT
21 THIS CONVERSATION WITH MR. CURRAN?

22 A. I DID NOT -- I DIDN'T KNOW HE WAS WRITING IT DOWN. I
23 THOUGHT IT WAS JUST HIM TEACHING ME SOMETHING. BUT I THOUGHT
24 IT WAS STRANGE THAT HE WAS TELLING ME BECAUSE I HAD JUST
25 GOTTEN THERE AND THE PREVIOUS OPERATORS -- OR NIGHT OPERATORS

1 SHOULD HAVE BEEN THE ONES WHO DRAINED IT BECAUSE IT TAKES LIKE
2 A LONG TIME TO GET FULL. IT IS NOT JUST SOMETHING THAT
3 HAPPENS EVERY DAY THAT IT GETS FULL.

4 Q. DO YOU KNOW WHO THE PREVIOUS OPERATOR WAS IN THAT HP-2
5 UNIT?

6 A. I THINK THAT SHIFT IT WAS JOSE.

7 Q. WHY DO YOU THINK THAT? WHY DO YOU THINK IT WAS JOSE?

8 A. JUST BECAUSE I REMEMBER THAT INCIDENT BECAUSE I THOUGHT
9 WHY DIDN'T HE TELL JOSE. I DON'T REMEMBER FOR ANY OTHER
10 SPECIFIC REASON.

11 Q. YOU SAID YESTERDAY THAT THERE WERE FOUR TRAINEES
12 TRAINING -- REPORTING TO JEFF FISCHER, YOU, JOSE, MENA, AND
13 PATRICK. WERE ALL OF YOU WORKING THE SAME JOB ONCE YOU
14 FINISHED TRAINING UNDER JEFF FISCHER?

15 A. YES --

16 MR. LAFAYETTE: OBJECTION, LACK OF FOUNDATION.

17 THE COURT: JUST LAY A LITTLE BIT OF FOUNDATION.

18 BY MS. SMALLETS:

19 Q. DO YOU KNOW WHAT JOB THAT YOUR FELLOW TRAINEES WERE
20 WORKING?

21 A. YES. WE ALL HAD HP-2 AND WE ROTATED. SO IT WAS JUST NOW
22 THE FOUR OF US WORKING IN HP-2 ROTATING SHIFTS.

23 Q. AND AS PART OF YOUR ROUNDS THAT DAY, DID YOU INSPECT THE
24 CPI OUTLET?

25 A. YES.

1 Q. WHAT IS THE CPI OUTLET, ROUGHLY?

2 A. IT'S KIND OF JUST WASTE FROM THE REFINERY, LIKE SLUDGE
3 WASTE THEY DON'T USE AND IT GOES INTO THESE STORAGE BINS IN
4 THE FLOOR.

5 Q. WHAT ARE YOU SUPPOSED TO BE INSPECTING THE OUTLET FOR?

6 A. JUST MAKING SURE THAT THEY ARE ALWAYS CLOSED.

7 Q. AND WHAT DID YOU OBSERVE WHEN YOU INSPECTED THE OUTLETS?

8 A. THAT THEY WERE CLOSED.

9 Q. WHAT DID YOU DO NEXT?

10 A. I TOOK MY SAMPLES, TOOK THOSE SAMPLES TO THE LAB.

11 Q. AND --

12 A. AND THEN BEGAN MY ROUNDS READING -- OUR ROUNDS IS JUST
13 WALKING AROUND READING ALL THE LEVELS, TEMPERATURES AND
14 PRESSURES OF THE DIFFERENT EQUIPMENT.

15 Q. DID YOU RECORD ANY INFORMATION ABOUT THE CPI OUTLETS?

16 A. YES. SO I RECORDED THAT THE STORAGE -- I'M NOT SURE WHAT
17 THE WORD THAT THEY CALL IT ANYMORE. IT HAS BEEN A LONG TIME.
18 BUT I RECORDED THAT IT WAS CLOSED. AND THEN I --

19 Q. HOW LONG AFTER YOU OBSERVED THE OUTLETS DID YOU RECORD
20 THAT IT WAS CLOSED?

21 A. TEN MINUTES.

22 Q. IS THAT -- HOW WERE YOU TRAINED TO DO THAT?

23 A. SO THE CPI IS FARTHER FROM THE REST OF THE UNIT. SO
24 TYPICALLY YOU RIDE YOUR BIKE OVER THERE -- OR RIDE A BIKE OR
25 SOME PEOPLE DRIVE. AND YOU CAN TAKE YOUR SAMPLES OF THE

1 LIQUID AND ALSO OBSERVE THE AREA AT THE SAME TIME. GO TO THE
2 LAB, RUN YOUR RESULTS, AND THEN START YOUR ROUNDS.

3 AND RATHER THAN GOING ALL THE WAY OUT TO THE CPI AGAIN,
4 YOU START YOUR ROUNDS AND DOCUMENT WHAT YOU SAW AT THE CPI AT
5 THAT TIME.

6 Q. DID YOU HAVE A CONVERSATION WITH MR. CURRAN ABOUT THE CPI
7 OUTLET THAT DAY?

8 A. YES.

9 Q. AND WHAT DID HE SAY TO YOU?

10 A. SO I'M IN THE MIDDLE OF MY ROUNDS AND HE COMES UP TO ME,
11 AND HE SAYS THAT HE NOTICED THAT I MARKED THE CPI WAS CLOSED
12 BUT HE WANTED TO SHOW ME THAT IT WAS OPEN. SO HE TOOK ME OVER
13 THERE AND SHOWED ME THAT IT WAS OPEN.

14 Q. DID YOU SAY ANYTHING TO HIM ABOUT THAT?

15 A. I DIDN'T.

16 Q. WHY NOT?

17 A. AT THAT TIME I WAS KIND OF LIKE EMBARRASSED FOR HIM AND
18 LIKE SHOCKED BECAUSE I HAD JUST WENT THERE AND I SAW THAT THEY
19 WERE CLOSED. AND SOMEONE EARLIER THAT DAY, AN OLDER MAN WHO
20 WORKED THERE FOR A LONG TIME WHO I NEVER MET, WAS ON A
21 DIFFERENT TEAM, HE CAME TO ME AND TOLD ME TO WATCH OUT --

22 MR. LAFAYETTE: OBJECTION, NARRATIVE AND HEARSAY.

23 THE COURT: OVERRULED. FINISH YOUR STATEMENT.

24 THE WITNESS: HE TOLD ME WHEN I WAS IN THE LAB TO
25 WATCH OUT, THAT IF -- THEY WANT TO GET RID OF ME, THEY ARE

1 GOING TO GET RID OF ME AND THEY ARE WATCHING ME LIKE A HAWK.

2 **MR. LAFAYETTE:** OBJECTION, HEARSAY, MOVE TO STRIKE.

3 **THE COURT:** OVERRULED.

4 **THE WITNESS:** SO WHEN THIS --

5 **THE COURT:** NOW I NEED A NEW QUESTION.

6 **BY MS. SMALLETS:**

7 **Q.** SO YOU WERE TELLING US ABOUT WHAT YOU WERE THINKING WHEN
8 YOU WERE TALKING TO CAMERON. SO WHAT HAPPENED NEXT WITH
9 CAMERON -- WITH MR. CURRAN?

10 **A.** RIGHT AFTER THAT HE TAKES ME OVER TO THE DRAEGER TUBES.

11 **Q.** OKAY.

12 **THE COURT:** I'LL REMIND THE JURY AGAIN. SO, WITH
13 RESPECT TO WHAT SHE JUST TESTIFIED, YOU CAN ONLY CONSIDER IT
14 FOR WHAT IT WAS HER STATE OF MIND, WHAT SHE WAS THINKING. I
15 DON'T HAVE THE OTHER WITNESS HERE. WE DON'T KNOW IF HE SAID
16 THAT OR NOT. SO ALL YOU CAN CONSIDER IT FOR IS WHAT SHE HAD
17 IN HER HEAD WHEN CAMERON TOOK HER TO THAT VALVE. OKAY?

18 **BY MS. SMALLETS:**

19 **Q.** DID YOU FINISH TELLING US EVERYTHING THAT THAT OPERATOR
20 TOLD YOU?

21 **THE COURT:** WELL, THAT QUESTION, AS FORMULATED, IS
22 OBJECTIONABLE.

23 **MS. SMALLETS:** SORRY. I MAY HAVE CUT HER OFF. I AM
24 SORRY.

1 **BY MS. SMALLETS:**

2 **Q.** WAS THERE ANYTHING ELSE THAT THE OPERATOR SAID THAT YOU
3 DIDN'T SAY -- DIDN'T TELL US?

4 **THE COURT:** THAT YOU WERE THINKING AT THE TIME THAT
5 SHE WENT, WOULD BE THE MORE APPROPRIATE QUESTION. THAT ONE
6 YOU CAN ANSWER.

7 **THE WITNESS:** HE JUST TOLD ME THAT THEY WOULD BE
8 SETTING TRAPS FOR ME AND THAT -- HE SAID I WORK WITH A LOT OF
9 A-HOLES. HE'S LIKE -- THEY TRIED DO THE SAME THING TO HIM.
10 AND HE GAVE ME SOME EXAMPLES OF WHAT THOSE TRAPS MIGHT BE.

11 **BY MS. SMALLETS:**

12 **Q.** SO YOU SAID THAT CAMERON TOOK YOU OVER TO THE DRAEGER
13 TUBES. WHAT DID HE SAY TO YOU?

14 **A.** HE SAID, DID YOU TAKE THE DRAEGER TUBE TEST -- OR HE SAID
15 DID YOU CHECK FOR H2S.

16 **Q.** WHAT IS H2S?

17 **A.** IT'S JUST SOMETHING -- IT'S HYDROGEN SULFIDE.

18 **Q.** IS IT --

19 **A.** NO. IT'S NOT, IS IT? SORRY, GUYS. I'M NERVOUS. IT HAS
20 BEEN A LONG TIME.

21 IT'S BASICALLY THAT H2S IS NOT SUPPOSED TO BE IN THIS AREA
22 WHERE WE TEST FOR IT. SO WE TEST FOR IT EVERY DAY. USUALLY
23 IT'S ZERO. SOMETIMES IT DOES HAVE A READING.

24 **Q.** HOW DO YOU TEST FOR IT?

25 **A.** YOU USE A DRAEGER TUBE AND A PUMP. THERE'S A SMALL BOX

1 YOU CAN OPEN THAT ALLOWS WHATEVER GAS IS IN THE VESSEL INTO
2 THAT BOX. YOU PULL THE TUBE AND IT TAKES A READING.

3 Q. AND HAD YOU TEST -- HAD YOU TESTED FOR H2S THAT DAY?

4 A. YES.

5 Q. HOW HAD YOU DONE THAT?

6 A. WITH THE DRAEGER TUBE.

7 Q. WAS THERE ANYTHING UNUSUAL ABOUT THE DRAEGER TUBE THAT YOU
8 USED?

9 A. YEAH.

10 SO WHEN I ARRIVED THERE, USUALLY ALL THE GUYS -- BECAUSE
11 WE ARE FOUR ROTATING GUYS -- I MEAN WE ARE FOUR ROTATING HP-2
12 OPERATORS, AND USUALLY THE DRAEGER TUBES ARE RIGHT WHERE WE
13 PULL THE SAMPLE. AND TODAY, WHEN I ARRIVED, THERE'S NO
14 DRAEGER TUBES ANYWHERE. SO I THOUGHT THAT WAS WEIRD.

15 Q. WHAT DID YOU DO NEXT?

16 A. I WENT TO A SHED THAT'S NOT TOO FAR AWAY, AND IN THAT
17 DRAWER THERE'S EXTRA DRAEGER TUBES. THAT'S WHERE CHRIS SALAS
18 SHOWED ME WHERE TO GET DRAEGER TUBES.

19 Q. DID YOU FIND A DRAEGER TUBE THERE?

20 A. I FOUND TWO.

21 Q. DID YOU USE ONE OF THE DRAEGER -- DID YOU USE ANY OF THOSE
22 DRAEGER TUBES TO PULL THE SAMPLE?

23 A. YES.

24 Q. WAS THERE ANYTHING UNUSUAL ABOUT THE DRAEGER TUBE YOU
25 USED?

1 **A.** I -- IT WAS BROKEN. NOT BROKEN. IT WAS OPENED ON ONE
2 END BUT NOT THE END THAT YOU PULL THE SAMPLE ON. THE END THAT
3 HOOKS UP TO THE PUMP.

4 **Q.** AND DID YOU -- WHY DID YOU USE THAT DRAEGER TUBE?

5 **A.** I USED THAT DRAEGER TUBE, ONE, BECAUSE I HAD BEEN SHOWN
6 THAT IT'S OKAY BY CHRIS SALAS TO USE THAT, ONES THAT ARE
7 ALREADY OPENED. AND ALSO BECAUSE I THOUGHT IT WAS OKAY, BUT I
8 STILL WANTED TO REPLACE -- THERE'S NO MORE FOR THE NEXT
9 PERSON. SINCE WE WERE ALREADY OUT IN THE FIELD, I WOULD TAKE
10 THE READING AND THEN CIRCLE BACK AROUND AND GET A NEW BOX.

11 **Q.** DID YOU GET A READING WHEN YOU TESTED THE SAMPLE THAT DAY?

12 **A.** YEAH. WHICH IS... WHICH IS UNUSUAL. IT'S SUPPOSED TO BE
13 ZERO, SO THAT DAY THERE WAS A READING.

14 **Q.** SO DID YOU TELL MR. CURRAN ANY OF THIS WHEN HE ASKED YOU
15 ABOUT THE DRAEGER TUBE?

16 **A.** YES.

17 **Q.** WHAT DID YOU TELL HIM?

18 **A.** I TOLD HIM EXACTLY WHAT I JUST TOLD YOU GUYS THAT'S WHAT I
19 DID. AND HE TOLD ME HE DIDN'T BELIEVE ME, THAT'S NOT WHAT I
20 DID BECAUSE -- CAN I --

21 **Q.** DID HE SAY WHY?

22 **A.** BECAUSE HE PUT THE DRAEGER TUBES WHERE THEY ACTUALLY GO,
23 WHICH IS ON A PIPE, NOT REALLY WHERE -- NEAR WHERE WE TEST,
24 THAT I NEVER, EVER NOTICED. AND HE COUNTED THEM. AND HE SAID
25 THAT I DIDN'T TAKE IT BECAUSE THE EXACT SAME NUMBER IS THERE

1 AND THAT HE CLEANED UP THE AREA.

2 Q. AND HAD YOU USED ONE OF THE DRAEGER TUBES ON THAT PIPE TO
3 TEST?

4 A. I TOLD HIM I NEVER EVER WAS AWARE AND I DIDN'T LOOK THERE,
5 AND I DIDN'T KNOW TO LOOK THERE. IT WASN'T NEAR WHERE I HAD
6 EVER GOT THE DRAEGER TUBES BEFORE.

7 Q. AND DID YOU AND MR. CURRAN DISCUSS ANYTHING ELSE ABOUT THE
8 DRAEGER TUBE THAT DAY?

9 A. I'M NOT SURE IF IT WAS THAT DAY THAT WE HAD A MEETING.
10 WAS IT THAT DAY? YOU CAN LOOK. I HAVE THE CALENDAR.

11 Q. WE HAVE THE PDL OF A CALENDAR, IF THAT WOULD HELP.

12 A. NO, IT WASN'T THAT DAY.

13 Q. OKAY. DID YOU -- DID YOU HAVE ANY CONVERSATION WITH
14 MR. CURRAN ABOUT A PUMP THAT NEEDED TO BE BUMPED?

15 A. YES. SAME DAY. I THINK IT WAS SAME DAY OR MAYBE THE NEXT
16 DAY. VERY CLOSE TOGETHER.

17 Q. DO YOU RECALL WHAT MR. CURRAN SAID TO YOU?

18 A. HE SAID, DID YOU BUMP THE PUMP.

19 Q. AND WHAT DID YOU SAY?

20 A. I SAID, DO YOU MEAN DID I -- I WASN'T SURE WHAT HE MEANT
21 BY "BUMP THE PUMP". I SAID, DO YOU MEAN DID I TURN ON
22 MOTOR -- WHATEVER NUMBER IT WAS. AND HE SAID HE DIDN'T THINK
23 THAT I TURNED IT ON. OR HE DIDN'T THINK I BUMPED THE PUMP
24 MUCH BECAUSE I DIDN'T KNOW WHAT HE MEANT WHEN HE SAID BUMP THE
25 PUMP.

1 Q. SO WHAT DID YOU SAY TO HIM -- WHAT DID HE SAY TO HIM?
2 WHAT DID HE SAY NEXT? I'M SORRY.

3 A. NOTHING.

4 Q. OKAY.

5 AND DID YOU HAVE A CONVERSATION WITH MS. -- MR. CURRAN
6 DURING THIS TIME PERIOD ABOUT THE FXG FLARE SAMPLE AND ALARM?

7 A. YEAH. I THINK THAT MIGHT HAVE BEEN A DAY LATER. HE JUST
8 SAID THAT THE FLARE SAMPLE WAS AN ALARM.

9 Q. CAN YOU TELL ME WHAT BEING AN ALARM MEANS?

10 A. IT MEANS THAT IT WASN'T PUT BACK PROPERLY. SO NOW IT
11 ALERTS THE BOARD OPERATOR THAT SOMEONE NEEDS TO GO PUT IT BACK
12 PROPERLY.

13 Q. AND WHEN MR. CURRAN TOLD YOU THIS, DID HE DO ANYTHING?

14 A. WE JUST WALKED OUT THERE. HE SHOWED ME WHY IT WAS AN
15 ALARM. WE CORRECTED IT, AND THAT WAS IT.

16 Q. OKAY. IF YOU LOOK AT YOUR PD LOG, THERE IS A REFERENCE TO
17 AN INSTANCE REGARDING A BAKER TANK.

18 (DISPLAYED ON SCREEN.)

19 IT IS ON THE SECOND PAGE.

20 SO I WOULD LIKE TO TALK ABOUT THAT NEXT.

21 CAN YOU TELL ME WHAT DID YOU DO WITH RESPECT TO THE BAKER
22 TANK THAT DAY?

23 A. SO, THE BAKER TANK WAS A TEMPORARY STORAGE. AND EVERY DAY
24 WE OPEN A VALVE THAT DRAINS THE TANK INTO A SEWER.

25 Q. AND HAD -- WHAT DID YOU DO THAT -- WHAT DID YOU DO THAT

1 DAY?

2 A. THAT NIGHT -- IT WAS A NIGHT SHIFT.

3 Q. SORRY.

4 A. AND THAT NIGHT I WENT TO THE SAME VALVE THAT I OPENED
5 EVERY OTHER NIGHT. AND I OPENED IT AND IT WAS -- I'M
6 GUESSING -- AND LIQUID CAME OUT. THERE WAS NOTHING ATTACHED
7 TO IT.

8 Q. WAS THERE A HOSE PRESENT?

9 A. THERE WAS A HOSE. THE SAME HOES THAT THERE HAD ALWAYS
10 BEEN THAT LEADS TO THE SEWER. BUT WHERE YOU TURN THE VALVE IS
11 KIND OF LIKE -- IF YOU WOULD SAY LIKE UNDER THIS TABLE IN A
12 DARK SPOT, SO YOU REACH UNDER, AND I OPENED IT AND LIQUID CAME
13 OUT.

14 Q. AND WAS THAT A MISTAKE YOU MADE?

15 A. YEAH.

16 Q. WHAT DID YOU DO NEXT?

17 A. I WENT TO CAMERON TO TELL HIM ABOUT WHAT HAPPENED.

18 Q. WHAT DID YOU TELL HIM?

19 A. I TOLD HIM THAT I OPENED THE VALVE THAT I USUALLY OPENED
20 AND TODAY IT WAS APPARENTLY NOT ATTACHED TO ANYTHING AND I
21 DIDN'T NOTICE.

22 Q. DID HE -- WHAT WAS HIS RESPONSE?

23 A. HE SAID NOT TO WORRY ABOUT IT. HE ASKED ME HOW BIG IT
24 WAS.

25 Q. WHAT DID YOU TELL HIM ABOUT HOW BIG IT WAS?

1 **A.** AND HE SAID HE WOULD COME LOOK AT IT.

2 I TOLD HIM IT IS LIKE THIS BIG (INDICATING) .

3 **Q.** I AM SORRY IF I CUT YOU OFF.

4 HE SAID HE WOULD COME LOOK AT IT?

5 **A.** YES.

6 **Q.** DID YOU KNOW IF HE EVER DID GO LOOK AT IT?

7 **A.** NOT RIGHT AWAY.

8 **Q.** DO YOU KNOW -- DID HE SAY ANYTHING ELSE WHEN YOU TOLD HIM?

9 **A.** NO. HE JUST SAID NOT TO WORRY ABOUT IT.

10 **Q.** OKAY. AND DID YOU TALK TO ANYONE ELSE ABOUT THE -- I'M
11 SORRY.

12 WHAT KIND OF LIQUID WAS IN THE BAKER TANK THAT DAY?

13 **A.** I DON'T REMEMBER.

14 **Q.** OKAY.

15 DID YOU TALK TO ANYONE ELSE THAT DAY ABOUT THE BAKER TANK
16 AND THE SPILL?

17 **A.** RIGHT AFTER WHEN I CAME BACK TO MY OFFICE, RIGHT AFTER I
18 TOLD CAMERON, ANOTHER SUPERVISOR, DONNIE GOFF, CAME UP TO ME,
19 AND HE SAID, HEY, I NOTICED THE... YOU KNOW, THE HOSE ON THE
20 BAKER TANK WAS OFF AND THERE'S A LITTLE LIQUID. SO I WENT
21 AHEAD AND TIGHTENED UP THAT VALVE.

22 AND HE SAID -- AND I TOLD HIM WHAT HAPPENED. I SAID I --
23 HE SAID, I WASN'T SURE IF IT WAS LEAKING OR WHAT. I SAID, NO,
24 I OPENED IT. AND HE SAID, WELL, DON'T WORRY ABOUT IT, IT
25 HAPPENS ALL THE TIME AND DON'T TELL CAMERON, THIS IS BETWEEN

1 ME AND YOU. AND THEN I SAID I ALREADY TOLD CAMERON.

2 Q. WHAT DID DONNIE SAY TO THAT? ANYTHING?

3 A. I DON'T REMEMBER EXACTLY WHAT HE SAID BUT, BASICALLY, TOLD
4 ME I SHOULDN'T HAVE TOLD CAMERON.

5 Q. DID YOU TALK TO ANYONE ELSE THAT DAY ABOUT THE BAKER TANK?

6 A. SHORTLY AFTER THAT, I THINK SOMEONE JUST OVERHEARD, AND
7 DEANNA CAME UP TO ME AND SAID THAT THOSE THINGS HAPPEN ALL THE
8 TIME BUT THAT I SHOULDN'T TELL MY SUPERVISOR. I SHOULDN'T
9 HAVE TOLD CAMERON.

10 Q. DID YOU TALK --

11 A. THE RIGHT -- THE TRAINING, WE WERE SUPPOSED TO TELL IF,
12 YOU KNOW, SOMETHING GETS OUT OF THE PIPES.

13 Q. DID YOU TALK TO PATRICK NEUMAN ABOUT IT?

14 A. YEAH. PATRICK WAS THE NEXT PERSON COMING ON SHIFT, SO I
15 TOLD HIM WHAT HAPPENED.

16 Q. WHAT DID MR. NEUMAN SAY?

17 A. HE WAS LIKE, OH, MY GOD, DON'T WORRY, I OPENED --

18 MR. LAFAYETTE: OBJECTION, HEARSAY AND RELEVANCY.

19 THE COURT: OVERRULED.

20 THE WITNESS: HE SAID I OPENED THIS VALVE AND
21 ACTUALLY OIL SPRAYED OUT ALL OVER ME AND I HAD TO CHANGE MY
22 REDS. HE HAD TO CHANGE HIS CLOTHES.

23 MR. LAFAYETTE: OBJECTION, HEARSAY. MOVE TO STRIKE
24 THE RESPONSE.

25 THE COURT: RESPONSE?

1 **MS. SMALLETS:** IT GOES TO HER BELIEF THAT THE
2 DIFFERENTIAL TREATMENT THAT SHE'S EXPERIENCING WHICH SHE THEN
3 REPORTS LATER.

4 **THE COURT:** ALL RIGHT. LADIES AND GENTLEMEN, AGAIN,
5 WE DON'T HAVE MR. NEUMAN HERE. I DON'T KNOW IF HE IS COMING,
6 SO WE DON'T KNOW.

7 YOU'VE HEARD DIFFERENT WITNESSES SAY DIFFERENT THINGS,
8 RIGHT? YOU ARE GOING TO HAVE TO DECIDE WHO YOU BELIEVE. YOU
9 CAN'T DECIDE WHO TO BELIEVE IF THEY'RE NOT HERE.

10 I WILL ALLOW IT IN FOR HER STATE OF MIND BUT THAT'S IT.
11 OKAY? GO AHEAD.

12 **MS. SMALLETS:** SURE.

13 **BY MS. SMALLETS:**

14 **Q.** DID YOU HAVE A CONVERSATION DURING THAT TIME PERIOD WITH
15 MR. CURRAN DURING THAT TIME PERIOD ABOUT YOUR WORK SCHEDULE?

16 **A.** DURING JULY?

17 **Q.** LET'S TAKE A LOOK AT THE PD LOG. ON PAGE -- THERE'S A
18 THIRD PAGE, IT SAYS DEF 166 AT THE BOTTOM.

19 **A.** YES, I DID ON THAT. IT LOOKS LIKE THE SAME DATE.

20 **Q.** DO YOU RECALL -- DO YOU KNOW WHAT THIS IS REFERRING TO?

21 **A.** YES.

22 **Q.** CAN YOU -- DID YOU TALK TO MR. CURRAN ABOUT IT?

23 **A.** YES.

24 **Q.** AND HOW DID THAT COME UP IN CONVERSATION?

25 **A.** HE ASKED ME, LIKE, HOW WAS THIS LAST SHIFT, AND I SAID

1 I -- YOU KNOW, THAT I DIDN'T REALLY KNOW WHAT HE WAS TALKING
2 ABOUT. HE SAID YOU WERE SUPPOSED TO WORK ON... I DON'T
3 REMEMBER WHAT DAY, BUT YOU WERE SUPPOSED TO WORK ON THIS DAY,
4 AND I SAID --

5 Q. WHAT WAS YOUR RESPONSE?

6 A. I DIDN'T KNOW THAT I WAS SUPPOSED TO WORK THAT DAY.

7 Q. DID HE SAY WHY HE THOUGHT YOU WERE SUPPOSED TO WORK THAT
8 DAY?

9 A. THE PREVIOUS PAGES THAT JEFF WHITED OUT AND I WAS SUPPOSED
10 TO MAKE UP TIME THAT I HAD ARRANGED WITH ERIC PEREZ, CAMERON
11 THOUGHT THIS WAS THAT TIME.

12 Q. DID YOU HAVE A DIFFERENT UNDERSTANDING AS TO WHAT TIME YOU
13 WERE SUPPOSED TO MAKE UP?

14 A. YEAH. SO, SINCE I WAS TECHNICALLY SWAPPING WITH MYSELF AT
15 THIS POINT, SINCE THEY CANCELED MY SWAP, THERE WAS NO ONE TO
16 REPLACE BECAUSE THEY ARRANGED THAT, SINCE IT WAS CANCELED.

17 SO ERIC PEREZ SAID I CAN MAKE UP THE TIME, YOU KNOW, JUST
18 MAKE IT UP WHENEVER. I ASKED HIM, CAN I MAKE IT UP AT FIRE
19 TRAINING? CAN I ATTEND A FEW EXTRA FIRE TRAININGS? AND HE
20 SAID TO JUST ATTEND SOME FIRE TRAININGS AND STAY AFTERWARDS
21 WHATEVER -- HOWEVER MANY HOURS.

22 Q. AND DID YOU --

23 A. AND I DON'T REMEMBER WHAT DATES THOSE WERE.

24 Q. DID YOU ULTIMATELY MAKE UP ALL THE TIME?

25 A. YES.

1 Q. AND DID YOU -- DID YOU MAKE IT UP, ANY OF IT, THE DATES
2 MR. CURRAN SAID YOU SHOULD HAVE?

3 A. NO.

4 Q. DID YOU TALK TO MR. CURRAN AND TELL HIM YOUR PERSPECTIVE
5 ON THIS?

6 A. YES.

7 Q. WHAT DID YOU SAY TO HIM?

8 A. I TOLD HIM THAT I'M SORRY HE'S UPSET BUT I DIDN'T
9 UNDERSTAND THAT I WAS SUPPOSED TO WORK THAT DAY. AND HE SAID
10 THAT I AGREED TO IT. AND I ASKED HIM, LIKE, I NEVER SAW IT ON
11 HIS SCHEDULE.

12 Q. DID YOU -- WHAT DID YOU SAY NEXT?

13 A. I THINK I JUST ASKED HIM -- WELL, THAT WAS LIKE -- I ASKED
14 HIM THAT WAS A FEW DAYS AGO. WHY DIDN'T ANYONE NOTICE I
15 WASN'T HERE IF I WAS SCHEDULED TO WORK.

16 Q. WHY DID YOU -- DID YOU EXPECT PEOPLE TO NOTICE YOU?
17 WEREN'T --

18 A. YEAH. IF I WAS -- HE SAID I WAS ON THE SCHEDULE AND I WAS
19 NEVER MADE AWARE THAT I WAS ON THE SCHEDULE.

20 Q. WHAT DOES BEING ON THE SCHEDULE MEAN?

21 A. IT MEANS THAT YOU ARE SCHEDULED TO WORK WITH A CERTAIN
22 TEAM ON A CERTAIN DAY, SO YOUR SUPERVISOR CAN SEE WHO IS ON --
23 WHO IS WORKING FOR THEM THAT DAY.

24 SO I JUST ASKED HIM, CAN YOU SHOW ME THE SCHEDULE OR WHY
25 NOBODY CALLED ME IF I WAS SUPPOSED TO BE HERE. BECAUSE IT

1 KIND OF JUST CAME UP IN A CASUAL CONVERSATION. IT'S NOT LIKE
2 HE SAID, HEY, YOU ARE SUPPOSED TO BE HERE THIS DAY AND
3 SOMEBODY NOTIFIED ME THAT YOU WEREN'T.

4 Q. DID YOU TALK ABOUT SCHEDULE PRO DURING THAT CONVERSATION?

5 A. I ASKED HIM ABOUT THE SCHEDULE AND HE SAID THERE'S
6 SCHEDULE PRO. DO YOU KNOW HOW TO USE SCHEDULE PRO? I SAID,
7 NO, I HADN'T BEEN SHOWN IT.

8 HE TRIES -- HE SHOWS ME HOW AND THEN REALIZES THAT I
9 HAVEN'T BEEN ASSIGNED A LOG-IN INFORMATION; THAT THEY COULDN'T
10 LOG ME IN. SO HE SAID I'LL WORK ON GETTING ME A PASSWORD AND
11 GETTING ME SET UP FOR SCHEDULE PRO.

12 Q. DID HE DO THAT?

13 A. YES.

14 Q. WHEN DID THAT HAPPEN?

15 A. MAYBE A FEW DAYS LATER.

16 THE COURT: YOU'VE GOT ONE MINUTE. IS THIS A GOOD
17 TRANSITION?

18 MS. SMALLETS: YES, IT IS A GOOD TRANSITION.

19 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, WE WILL
20 TAKE OUR FIRST BREAK. WE WILL BE BACK IN -- IN 15 MINUTES.

21 (PROCEEDINGS HELD OUTSIDE THE PRESENCE OF THE JURY.)

22 THE COURT: ALL RIGHT. YOU MAY STEP DOWN,
23 MS. NEWTON. 15 MINUTES.

24 (RECESS TAKEN AT 10:00 A.M.; RESUMED AT 10:17 A.M.)

25 THE CLERK: EVERYONE BE SEATED. COURT IS IN SESSION.

1 **THE COURT:** ALL RIGHT. MS. NEWTON COME ON BACK.
2 LET'S CALL THE JURORS.

3 (PROCEEDINGS HELD IN THE PRESENCE OF THE JURY.)

4 OKAY. EVERYBODY READY? WE ARE BACK ON THE RECORD. THE
5 RECORD WILL REFLECT THAT THE JURY IS BACK WITH US.

6 YOU MAY PROCEED.

7 **BY MS. SMALLETS:**

8 **Q.** ONCE YOU WERE ON, WORKING ON THE SHIFT, WHAT WAS THE START
9 OF SHIFT TIME?

10 **A.** AT 6:00 A.M.

11 **Q.** DID YOU ARRIVE AT WORK AFTER 6:00 A.M. ON JULY 22ND?

12 **A.** YES.

13 **Q.** WHAT HAPPENED THAT MADE YOU LATE THAT DAY?

14 **A.** I THINK I HAD A DEAD BATTERY, SO I ARRANGED WITH PATRICK
15 PRETTY EARLY, LIKE 5:00, MAYBE LIKE -- MAYBE ACTUALLY LATER
16 THAN 5:00, BUT I JUST ASKED HIM IF HE COULD STAY, I WOULD BE A
17 FEW MINUTES LATE. AND I WOULD STAY FOR HIM A FEW MINUTES
18 LATER.

19 **Q.** WHAT WAS PATRICK'S RESPONSE?

20 **A.** YEAH, NO PROBLEM.

21 **Q.** AND WHY DID YOU THINK THAT THIS WAS THE PROPER THING TO DO
22 WHEN YOU KNEW YOU WERE GOING TO BE LATE?

23 **MR. LAFAYETTE:** OBJECTION, LEADING.

24 **THE COURT:** OVERRULED.

25 **THE WITNESS:** IT IS SOMETHING THAT ALL THE OPERATORS

1 DID. LIKE, IF THEY HAD -- THEIR DAUGHTERS OR THEIR SONS HAD
2 BASEBALL GAMES, THEY WOULD SAY MY KID HAS A GAME TODAY, CAN I
3 COME IN AT 4:00 AND YOU GET OFF AT 4:00. SO THEY DID IT BY
4 HOURS. EVEN -- SO I KNEW THAT THIS WASN'T A BIG DEAL.

5 Q. HAD YOU HEARD ANY SUPERVISOR TALK TO YOU ABOUT THAT
6 PRACTICE?

7 A. YES. THE SUPERVISORS TALKED TO US ABOUT IT AS ONE OF THE
8 BENEFITS OF THIS JOB. THE SCHEDULE IS NOT VERY FLEXIBLE BUT
9 YOU HAVE ROOM TO MAKE THOSE SMALL ARRANGEMENTS WITH OTHER
10 OPERATORS.

11 Q. PRIOR TO JULY 22ND, HAD ANYONE TOLD YOU IF YOU NEEDED TO
12 GET A MANAGER'S PERMISSION TO DO THAT?

13 A. NO.

14 Q. NOW, LET'S TALK ABOUT -- I WOULD LIKE TO TURN YOUR
15 ATTENTION TO -- I'M SORRY.

16 A. AND I HAD STAYED FOR OTHER OPERATORS BEFORE, THE SAME
17 SITUATION WITHOUT MANAGER'S APPROVAL.

18 Q. I WOULD LIKE TO TURN YOUR ATTENTION TO -- TALK ABOUT A
19 MEETING THAT TOOK PLACE ON JULY 22ND THAT YOU HAD WITH CAMERON
20 AND GUY AND NICK BACKENS -- I'M SORRY. CAMERON CURRAN AND GUY
21 ROZAR AND NICK BACKENS? DO YOU RECALL THAT MEETING?

22 A. YES.

23 Q. DO YOU RECALL THAT MEETING?

24 A. YES.

25 Q. DO YOU -- DO YOU KNOW WHAT THE PURPOSE OF THE MEETING WAS?

1 **A.** THE PURPOSE OF THE MEETING WAS REGARDING THE BAKER TANK
2 AND THE VALVE THAT I OPENED. IT WAS ZERO TO SIXTY MEETING.

3 **Q.** WHAT IS A ZERO TO SIXTY MEETING?

4 **A.** GUY ROZAR IS THE SAFETY MANAGER, AND THE ZERO TO SIXTY
5 MEETINGS ARE WHEN SOMEONE IS ALMOST HURT OR REPORTED A MISTAKE
6 THAT THEY MADE, SO THEY CAN DOCUMENT ALL THE FACTS AND
7 HOPEFULLY FIND WAYS THAT THIS COULD NOT HAPPEN AGAIN TO
8 SOMEBODY ELSE.

9 **Q.** DO YOU RECALL HOW THAT MEETING STARTED?

10 **A.** I REMEMBER IT WAS LIKE IN THE MIDDLE OF THE NIGHT. IT WAS
11 WITH -- CAMERON TOLD ME WE WOULD HAVE A ZERO TO SIXTY WITH GUY
12 AND ONE OF THE OTHER GUYS FROM THE OPCEN SOUTH. HE WAS A
13 UNION STEWARD, SO HE APPROACHED ME. HE HEARD WHAT HAPPENED.
14 HE SAID HE WOULD LIKE TO ATTEND THE MEETING WITH ME AND TAKE
15 NOTES FOR ME. AND HE ALSO TOLD ME ANY MEETING THAT I HAVE
16 FROM HERE ON OUT THAT HE SHOULD BE THERE WITH ME OR SOME OTHER
17 UNION REPRESENTATIVE.

18 **Q.** AND WHAT HAPPENED FIRST AT THAT MEETING?

19 **A.** WE WENT OVER -- I TOLD THEM EXACTLY WHAT HAPPENED, ABOUT
20 THE MISTAKE THAT I MADE.

21 **Q.** AND DID GUY ROZAR SAY ANYTHING AT THE MEETING?

22 **A.** GUY TOLD ME THAT -- HE ASKED ME IF THE PREVIOUS OPERATOR
23 HAD INFORMED ME OF THE CHANGE ON THE SHIFT TURNOVER, THAT IF
24 IT HAD BEEN HOOKED UP TO THE OTHER SIDE, IF ANYONE LET ME KNOW
25 THAT OR IF IT WAS IN THE SHIFT REPORT.

1 Q. WHAT DID YOU TELL HIM?

2 A. I SAID NO.

3 Q. DID GUY SAY ANYTHING ELSE AT THE MEETING?

4 A. HE SAID THAT'S ONE THING, EVERY CHANGE SHOULD BE
5 COMMUNICATED. THAT IS WHEN WE CAN AVOID THESE MISTAKES. THE
6 SECOND THING HE SAID IS THAT IT SHOULD HAVE HAD A SAFETY PLUG,
7 SO THAT NO VALVE IS JUST OPEN TO ANYTHING. THERE'S A -- ONCE
8 IT IS UNHOOKED TO SOMETHING ELSE, THERE IS A SAFETY PLUG SO
9 THAT, IF SOMEONE DOES MAKE THAT MISTAKE, IT'S A SAFETY
10 MECHANISM TO PROTECT THEM FROM WHATEVER LIQUID IS INSIDE.

11 Q. DID MR. ROZAR SAY ANYTHING ELSE DURING THE MEETING?

12 A. NOT THAT I CAN REMEMBER RIGHT NOW.

13 Q. DID MR. ROZAR SAY ANYTHING ABOUT -- ANYTHING THAT YOU
14 SHOULD HAVE DONE DIFFERENTLY?

15 A. I MEAN, I DEFINITELY SHOULD HAVE PAID CLOSER ATTENTION
16 AND, HE SAID I SHOULD PAY CLOSER ATTENTION AND BE MORE
17 ATTENTIVE, AND I SAID I WOULD DO THAT.

18 Q. DID YOU -- DID MR. CURRAN SAY ANYTHING DURING THIS
19 MEETING?

20 A. YES.

21 Q. DO YOU RECALL WHAT HE SAID?

22 A. I THINK HE SAID THE SAME THING AS GUY. I THINK HE
23 RECOMMENDED, YOU KNOW, USING -- ALWAYS USING A FLASHLIGHT.

24 Q. DID YOU TALK ABOUT ANYTHING ELSE IN THIS MEETING OTHER
25 THAN THE VALVE THAT YOU OPENED ON THE BAKER TANK?

1 **A.** OH, YES. WE DID. SO AT THIS TIME, CAMERON ALSO STARTS TO
2 GO OVER ALL THESE PREVIOUS INCIDENTS THAT HE HAD WRITTEN DOWN,
3 THAT I WAS UNAWARE THAT HE HAD WRITTEN DOWN.

4 **Q.** AND WHEN YOU SAY WRITTEN DOWN, WHERE? WHERE ARE YOU
5 TALKING ABOUT?

6 **A.** IN THE POSITIVE DISCIPLINE FILE.

7 **Q.** HOW DID YOU FIND OUT THAT MR. CURRAN HAD WRITTEN INCIDENTS
8 IN YOUR POSITIVE DISCIPLINE FILE?

9 **A.** AT THIS MEETING.

10 **Q.** WHAT DID HE SAY?

11 **A.** HE JUST WENT OVER THEM ALL. KIND OF -- HE WAS GOING OVER
12 THEM ALL TO SAY THAT I HAD BEEN MAKING MISTAKES AND THAT HE
13 THOUGHT I SHOULD PAY CLOSER ATTENTION. AND THEN THE UNION
14 STEWARD --

15 **Q.** DID HE HAVE A RESPONSE?

16 **A.** HE SAID WHY HAVE YOU BEEN WRITING -- HE ASKED ME IF I KNEW
17 ABOUT THESE COACHINGS. NO. HE ASKED CAMERON, DID YOU NOTIFY
18 CIARA THAT YOU'VE BEEN WRITING ALL THESE COACHINGS. AND
19 CAMERON SAID NO, THE PURPOSE OF THE COACHING IS TO LET THEM
20 KNOW THAT YOU ARE WRITING IT IN THERE SO THEY CAN MAKE --

21 **MR. LAFAYETTE:** OBJECTION, HEARSAY.

22 **THE COURT:** OVERRULED.

23 **THE WITNESS:** SO THEY CAN MAKE IMPROVEMENTS OR FIX
24 THEIR BEHAVIORS. AND CAMERON SAID THAT HE HAD BEEN WRITING IT
25 FOR A FEW DAYS NOW, BUT HE HAD NEVER NOTIFIED ME BUT HE WAS

1 NOTIFYING ME NOW.

2 **BY MS. SMALLETS:**

3 **Q.** DID CAMERON SAY ANYTHING ELSE AFTER THAT?

4 **A.** NO.

5 **Q.** DID YOU -- DID YOU SAY ANYTHING ABOUT ONCE CAMERON WENT
6 THROUGH THE INCIDENTS IN THE PD LOG?

7 **A.** WELL, ONCE THE SHIFT OF THE MEETING CHANGED FROM THE ZERO
8 TO SIXTY TO THE LONG LIST THAT HE CREATED ON ME -- WELL, PRIOR
9 TO THAT HE KEPT -- I SAID, YOU KNOW, I FEEL A LITTLE WORRIED
10 ABOUT MY JOB. LIKE I FEEL LIKE YOU'RE MAKING A TRAIL ON ME.
11 I THOUGHT THIS WAS A ZERO TO SIXTY MEETING. AND HE SAID THIS
12 IS NOT DISCIPLINE. HE KEPT REPEATING TO ME IT IS NOT
13 DISCIPLINE. I'M JUST -- WE ARE JUST GOING OVER THESE DETAILS.

14 **Q.** DID YOU DURING THAT MEETING DID YOU SAY ANYTHING ABOUT THE
15 PARTICULAR INCIDENTS THAT WERE RAISED IN THE PD LOG?

16 **A.** YEAH. I JUST SAID THAT THEY PICK AND CHOOSE WHO THEY
17 WRITE -- WHO THEY DOCUMENT, THAT I FEEL LIKE THEY ARE PICKING
18 AND CHOOSING WHO THEY WRITE IN THE PD FILE.

19 **Q.** DID YOU OFFER ANY SPECIFIC EXAMPLES AS TO WHY YOU FELT
20 THAT WAY?

21 **A.** I DID. THE MOST SPECIFIC -- BECAUSE IT WAS THE MOST
22 RECENT WAS I SAID TO CAMERON THAT THEY JUST, YOU KNOW, HAD THE
23 OVERFILL OF SULFURIC ACID AND YOU WENT OUT OF YOUR WAY TO MAKE
24 SURE IT WASN'T DOCUMENTED SO THAT I DON'T GET ANYONE IN
25 TROUBLE, BUT YOU'RE DOCUMENTING EVERY TINY THING ON ME AND IT

1 MAKES ME FEEL LIKE -- I'M JUST REALLY WORRIED ABOUT MY JOB.

2 Q. DID YOU --

3 A. BECAUSE IT LOOKS BAD ON PAPER.

4 Q. HOW DID THAT MEETING END?

5 A. THE MEETING ENDED. CAMERON REASSURED ME THAT IT WASN'T
6 DISCIPLINE. GUY SAID, YOU KNOW, NOT TO WORRY. NICK BACKENS
7 TOOK NOTES FOR ME AND HANDED THEM -- NICK WAS THE UNION GUY.
8 AND HE SAID THESE ARE YOUR NOTES, I THINK THIS IS EVERYTHING
9 THAT WAS SAID.

10 Q. DID YOU HAVE ANY -- DO YOU RECALL ANY CONVERSATIONS YOU
11 HAD WITH CAMERON -- MR. CURRAN DURING THE NEXT WEEK OR SO?

12 A. NO.

13 Q. LET'S TAKE A LOOK AT EXHIBIT 40.

14 MS. SMALLETS: THIS WAS PREVIOUSLY ADMITTED.

15 (DISPLAYED ON SCREEN.)

16 BY MS. SMALLETS:

17 Q. CAN YOU TELL US WHAT THIS IS?

18 A. THIS IS THE FIFTH REVIEW GIVEN TO ME. THIS TIME BY
19 CAMERON.

20 Q. AND DID YOU HAVE A MEETING WITH MR. CURRAN TO DISCUSS THIS
21 REVIEW?

22 A. YES, WE DID.

23 Q. DO YOU RECALL WHAT HE SAID TO YOU ABOUT THE REVIEW DURING
24 THAT MEETING?

25 A. I JUST REMEMBER IT BEING MOSTLY POSITIVE.

1 Q. TAKE A LOOK AT THE -- THE BLOCK UNDER WORK SPEED,
2 ACCURACY, AND THOROUGHNESS.

3 OH, NO. I AM SORRY. THAT'S NOT THE PART I WANTED TO ASK
4 YOU ABOUT.

5 ON THE SECOND PAGE, TAKE A LOOK AT THE BOX UNDER -- RIGHT
6 NEXT TO JOB KNOWLEDGE AND SKILLS. YOU SEE THERE IS A
7 REFERENCE TO TIME SPENT -- SOME TIME SPENT OUTSIDE TRACING
8 PIPES IN THE UNIT AND REVIEWING SIMULATING PROCEDURES WOULD BE
9 BENEFICIAL TO LEARNING THE EQUIPMENT IN THE UNIT?

10 A. YES.

11 Q. DID YOU DISCUSS THAT WITH MR. CURRAN AT THAT MEETING?

12 A. YES.

13 Q. WHAT DO YOU RECALL MR. CURRAN SAYING TO YOU ABOUT THAT?

14 A. HE SAID THAT HE WANTED TO SEE ME OUTSIDE TRACING PIPE MORE
15 OFTEN.

16 Q. DID YOU SAY ANYTHING TO HIM IN RESPONSE?

17 A. I ASKED -- I ASKED HIM IF HE SAID THE SAME THING TO BILL.
18 BILL WAS --

19 Q. LET'S TAKE A STEP BACK. WHO IS BILL?

20 A. BILL WAS THE OTHER NEW HIRE ON OUR TEAM. WE HIRED IN
21 TOGETHER. WE ARE BOTH UNDER THE SUPERVISION OF CAMERON.

22 Q. DID YOU HAVE THE OPPORTUNITY TO OBSERVE -- WERE YOU AND
23 MR. -- IS BILL, BILL WESSELMAN?

24 A. YES.

25 Q. WERE YOU AND MR. WESSELMAN WORKING ON THE SAME SHIFT?

1 **A.** WE WERE WORKING ON THE SAME SHIFT, YES.

2 **Q.** DID YOU HAVE AN OPPORTUNITY TO OBSERVE HOW MUCH TIME HE
3 SPENT AT HIS DESK VERSUS OUT IN THE UNIT?

4 **A.** YES. OUR DESKS WERE RIGHT NEXT TO EACH OTHER.

5 **Q.** AND DID -- SO WHAT DID YOU SAY TO MR. CURRAN ABOUT
6 MR. WESSELMAN?

7 **A.** I -- ACTUALLY I JUST ASKED HIM -- I ASKED HIM DO YOU
8 FOLLOW BILL AT ALL AS MUCH AS YOU FOLLOW ME IN THE UNITS, AND,
9 YOU KNOW, KIND OF MICROMANAGING. I JUST ASKED HIM, DO YOU
10 FOLLOW BILL. AND HE SAID, ACTUALLY I DON'T BUT I SHOULD AND
11 I'LL START. AND THEN I --

12 **Q.** SORRY. WAS THERE SOMETHING ELSE YOU SAID?

13 **A.** THEN I ASKED BILL, BECAUSE I KNOW WE SPEND A LOT OF TIME
14 TOGETHER, OUR DESKS ARE APART -- BECAUSE WE GOT OUR REVIEWS ON
15 THE SAME DAY, WE HIRED IN TOGETHER. I SAID, DOES CAMERON SAY
16 ANYTHING TO YOU ABOUT BEING IN HERE TOO MUCH, HE SAID NO.

17 **MR. LAFAYETTE:** OBJECTION, HEARSAY.

18 **MS. SMALLETS:** IT GOES TO HER NOTICE AND BELIEF ABOUT
19 HOW SHE IS BEING TREATED.

20 **THE COURT:** ALL RIGHT. ONLY ALLOWED FOR THAT
21 PURPOSE.

22 **BY MS. SMALLETS:**

23 **Q.** AT SOME POINT IN TIME, DID YOU MEET CHRISTINE LAYNE?

24 **A.** YES.

25 **Q.** DO YOU KNOW WHO, BASED ON YOUR UNDERSTANDING AT THE TIME,

1 WAS CHRISTINE LAYNE?

2 **A.** MY UNDERSTANDING, SHE WAS THE, LIKE, TOP OF HR THAT WAS
3 ON-SITE.

4 **Q.** AND HOW DID YOU -- DO YOU RECALL HOW YOU LEARNED YOU WERE
5 GOING TO MEET WITH CHRISTINE?

6 **A.** I THINK ERIC PEREZ TOLD ME THAT I WOULD MEET WITH
7 CHRISTINE.

8 **Q.** HOW DID YOU FEEL WHEN YOU LEARNED THAT?

9 **A.** I WAS KIND OF LOOKING FORWARD TO IT BECAUSE I THOUGHT, YOU
10 KNOW, I'VE BEEN TALKING TO ERIC ABOUT THESE ISSUES BUT NOW I'M
11 TALKING TO SOMEONE ABOVE ERIC.

12 **Q.** DID YOU DO ANYTHING TO PREPARE FOR THE MEETING?

13 **A.** SO -- I LOOKED BACK -- IN OUR TRAINING. HR CAME IN AND
14 GAVE US ALL OF OUR TRAINING MATERIAL. SO I JUST LOOKED BACK
15 AT THAT MATERIAL. SO I CAN MAKE SURE -- CAN I -- SO I COULD
16 JUST MAKE SURE TO USE THE RIGHT LANGUAGE FOR WHAT IT WAS I WAS
17 TRYING TO EXPRESS TO ERIC.

18 **Q.** LET'S TAKE A LOOK IN YOUR BINDER AT EXHIBIT 101.

19 **MR. LAFAYETTE:** I COULDN'T HEAR THE EXHIBIT NUMBER.

20 **THE COURT:** 101.

21 **BY MS. SMALLETS:**

22 **Q.** CAN YOU TELL US WHAT THIS IS?

23 **A.** IT'S JUST HIGHLIGHTED PIECES OF THE HANDBOOK THAT SHELL
24 GAVE US.

25 **Q.** ARE THE HIGHLIGHTS YOURS?

1 **A.** YES.

2 **Q.** WHEN DID YOU MAKE THOSE?

3 **A.** BEFORE THE MEETING.

4 **MS. SMALLETS:** YOUR HONOR, WE WOULD LIKE TO OFFER
5 EXHIBIT 101 INTO EVIDENCE.

6 **MR. LAFAYETTE:** NO OBJECTION, YOUR HONOR.

7 **THE COURT:** ADMITTED.

8 (PLAINTIFF'S EXHIBIT 101 RECEIVED IN EVIDENCE)

9 **BY MS. SMALLETS:**

10 **Q.** AND WHY DID YOU HIGHLIGHT THE PORTIONS OF EXHIBIT 101 THAT
11 YOU HIGHLIGHTED?

12 (DISPLAYED ON SCREEN.)

13 **A.** I JUST FELT THOSE WERE THINGS THAT I ASSOCIATED WITH, THAT
14 I FELT WAS THE WAY I FELT.

15 **Q.** LET'S SEE. IT IS NOT A GREAT COPY. LET'S TAKE A LOOK AT
16 THE SECOND PAGE OF THE DOCUMENT, THAT FIRST HIGHLIGHT. CAN
17 YOU SEE WHAT THAT SAYS?

18 **A.** IT SAYS, TREAT PEOPLE FAIRLY AND WITH VALID,
19 BUSINESS-RELATED REASONS.

20 **Q.** LET'S TAKE A LOOK AT THE NEXT PAGE?

21 **A.** AND IT SAYS INCONSISTENCY.

22 **Q.** DID YOU LOOK AT ANY OTHER -- SORRY. LET'S TAKE A LOOK AT
23 EXHIBIT 102.

24 **A.** 102?

25 **Q.** YES.

1 **A.** OKAY.

2 **Q.** ARE YOU FAMILIAR WITH THIS DOCUMENT?

3 **A.** YES.

4 **Q.** WHAT IS IT?

5 **A.** IT'S THE SULFURIC ACID --

6 **Q.** 102? DID I HAVE THE WRONG NUMBER IN THE BINDER?

7 **A.** 102?

8 **MS. SMALLETS:** YOUR HONOR, MAY I APPROACH?

9 (EXHIBIT HANDED TO WITNESS.)

10 **BY MS. SMALLETS:**

11 **Q.** I AM SORRY. YOU HAD THE WRONG DOCUMENT IN YOUR BINDER. I
12 HAVE NOW JUST GIVEN YOU THE DOCUMENT MARKED AS EXHIBIT 102.
13 ARE YOU FAMILIAR WITH THAT DOCUMENT?

14 **A.** YES.

15 **Q.** CAN YOU TELL US WHAT THAT IS?

16 **A.** SHELL'S POLICY. SHELL'S POLICY AND COMMITMENT.

17 **Q.** DID YOU RECEIVE THAT DOCUMENT AT ANY POINT IN TIME?

18 **A.** YES. IN OUR NEW HIRE TRAINING.

19 **MS. SMALLETS:** YOUR HONOR, WE WOULD LIKE TO OFFER 102
20 INTO EVIDENCE.

21 **MR. LAFAYETTE:** NO OBJECTION.

22 **THE COURT:** ADMITTED.

23 (PLAINTIFF'S EXHIBIT 102 RECEIVED IN EVIDENCE)

24 (DISPLAYED ON SCREEN.)

25

1 **BY MS. SMALLETS:**

2 **Q.** DID YOU HIGHLIGHT ANY PORTIONS OF THAT DOCUMENT?

3 **A.** WORK ENVIRONMENT FREE OF DISCRIMINATION.

4 **Q.** MAYBE WE CAN GET IT UP ON THE SCREEN AND THAT MAY HELP.
5 IT IS EASIER TO SEE THERE?

6 **A.** AND INTIMIDATION.

7 **Q.** DID YOU HIGHLIGHT ANY OTHER PORTIONS?

8 **A.** MAKING DEROGATORY COMMENTS, USING SLURS, FOSTERING
9 NEGATIVE STEREOTYPES.

10 **Q.** WHY DID YOU HIGHLIGHT THAT PORTION OF THAT DOCUMENT?

11 **A.** I JUST FELT LIKE I WAS TRYING TO ASK ERIC -- OR TELL HIM
12 THAT I WAS BEING TREATED UNFAIRLY AND MAYBE THEY DIDN'T
13 UNDERSTAND. SO I THOUGHT IF I CAN SHOW THEM THEIR OWN POLICY
14 AND SHOW THEM EXAMPLES OF WHAT'S HAPPENING AND THESE ARE THE
15 THINGS, THAT IT WOULD HELP THEM TO UNDERSTAND THAT I FELT I
16 WAS BEING TREATED DIFFERENTLY.

17 **Q.** OKAY. DO YOU RECALL WHO ATTENDED THE MEETING ON
18 AUGUST 2ND?

19 **A.** CHRISTINE, LAYNE, ERIC PEREZ AND RAY JONES.

20 **Q.** DID NICK BACKENS ATTEND?

21 **A.** AND NICK BACKENS ATTENDED THE BEGINNING. CHRISTINE LAYNE
22 ASKED NICK BACKENS TO LEAVE.

23 **Q.** DID YOU WANT TO RECORD THAT MEETING?

24 **A.** YES.

25 **Q.** WHY?

1 **A.** I THINK NICK KIND OF RECOMMENDED IT, AND I JUST WANTED --
2 I JUST WANTED TO RECORD THAT... WHAT I WAS SAYING, WHAT I WAS
3 TRYING TO SAY I WAS BEING TREATED DIFFERENTLY AND SEE WHAT
4 THEY WERE GOING -- TO GIVE ME SOME ADVICE ON HOW THEY THOUGHT
5 I COULD I'M IMPROVE.

6 **Q.** DID YOU --

7 **A.** JUST KIND OF NEW WAY OF TAKING NOTES, I GUESS.

8 **Q.** DID YOU END UP RECORDING THAT MEETING?

9 **A.** NO.

10 **Q.** WHY NOT?

11 **A.** CHRISTINE LAYNE SAW ME TAKING MY PHONE OUT OF MY PURSE,
12 ASKED ME IF I WAS RECORDING. I SAID YES, AND SHE SAID THAT'S
13 NOT OKAY. SO I TURNED IT OFF.

14 **Q.** DO YOU RECALL WHAT WAS THE FIRST TOPIC THAT WAS DISCUSSED
15 IN THAT MEETING?

16 **A.** DO I RECALL IN ORDER? I DON'T.

17 **Q.** DO YOU RECALL WHAT TOPICS WERE DISCUSSED IN THAT MEETING?

18 **A.** WHAT WAS THE DATE OF THE MEETING?

19 **Q.** THE AUGUST 2ND MEETING WITH CHRISTINE.

20 **A.** I THINK THE FIRST TOPIC THAT WAS DISCUSSED WAS THE SHIFT
21 SWAP WITH PATRICK NEUMAN.

22 **Q.** DO YOU RECALL WHAT ANYONE SAID ABOUT THAT?

23 **A.** NO -- OKAY. MEMORY REFRESHED. I REMEMBER NOW WHAT THE
24 FIRST THING WE TALKED ABOUT WAS.

25 IT WAS THE ATTENDANCE AND THE GATE LOGS.

1 Q. OKAY. WHAT DID YOU TALK ABOUT WITH THE ATTENDANCE AND THE
2 GATE LOGS?

3 A. IS THIS MY FIRST MEETING WITH CHRISTINE OR SECOND?

4 MR. LAFAYETTE: OBJECTION.

5 BY MS. SMALLETS:

6 Q. DID YOU MEET WITH CHRISTINE BEFORE -- HOW MANY TIMES DID
7 YOU MEET WITH CHRISTINE?

8 A. TWICE. AND THEN THIRD TIME WHEN I WAS FIRED.

9 Q. OKAY. WAS THIS -- WAS THIS THE FIRST OR SECOND? LET'S
10 TALK ABOUT YOUR FIRST MEETING WITH CHRISTINE.

11 A. OKAY. FIRST MEETING WITH CHRISTINE, RAY JONES --

12 Q. OKAY.

13 A. -- AND NICK BACKENS.

14 Q. TELL US WHAT HAPPENED AT THAT MEETING.

15 A. I KNOW AT THE END, WE TALKED ABOUT MY CONCERNS, AND IN THE
16 BEGINNING, THEY TALKED ABOUT THEIR CONCERNS. I JUST CAN'T --
17 I DON'T REMEMBER ANYMORE WHAT IT WAS AT THIS MOMENT WHAT THEY
18 WERE TALKING TO ME ABOUT.

19 Q. OKAY.

20 A. IS THERE SOMETHING I CAN --

21 Q. THAT'S OKAY. WHAT DO YOU REMEMBER ABOUT -- WHAT CONCERNS
22 DID YOU RAISE IN THAT MEETING?

23 A. THAT I WASN'T BEING TREATED FAIRLY AND I KNOW THERE WAS A
24 TOPIC OF THE ATTENDANCE. I THINK THIS MIGHT BE THE MEETING
25 WHERE THEY HAD THE GATE LOGS OR THEY TOLD ME THEY HAD THE GATE

LOGS, OR IT COULD HAVE BEEN THE SECOND MEETING.

Q. DID YOU TALK TO RAY JONES IN PRIVATE DURING THIS MEETING?

A. YES.

Q. DO YOU RECALL HOW YOU ENDED UP TALKING TO RAY JONES IN PRIVATE?

A. SO, AT THE END OF THE MEETING I TOLD THEM, YOU KNOW, THAT I THINK I'M BEING TREATED UNFAIRLY, THAT MY PD FILE IS WAY MORE DETAILED THAN ANYONE ELSE'S, THAT THEY ARE PICKING AND CHOOSING WHAT THEY ARE REPORTING. I TOLD THEM THAT I DIDN'T THINK I WAS LATE. I JUST TOLD THEM EVERYTHING. WELL, I STARTED TO. AND THEN I WENT ON TO GO ON TO VERY SPECIFICS WITH THE NAME JEFF FISCHER. I SAID, YOU KNOW, AND JUST RIGHT FROM THE START, FROM THE MOMENT I GOT HERE, JEFF FISCHER SAID THIS, JEFF FISCHER SAID THAT.

Q. DID YOU TELL THEM ANY EXAMPLES OF WHAT JEFF FISCHER HAD SAID TO YOU?

A. YES.

Q. WHAT EXAMPLES DID YOU GIVE THEM?

A. I TRIED TO START FROM THE BEGINNING. I STARTED WITH: WHO DID I PISS OFF TO HAVE THESE ASSHOLES COMING? THEN YOU CAN'T GO ON THAT TEAM BECAUSE YOU'RE A GIRL. THAT WOMEN DON'T MAKE IT IN OPCEN. THEN THE CONSTANT THREAT OF ME BEING WALKED TO THE GATE AND THE STORIES OF THE GIRL WHO WAS WALKED TO THE GATE IN TEARS.

Q. AND DID YOU --

1 **A.** BUT I DIDN'T GET THAT FAR. BUT THOSE ARE THE THINGS I
2 STARTED, AND THEN CHRISTINE LAYNE SAID STOP, STOP RIGHT THERE.
3 SHE SAID I WANT YOU TO THINK ABOUT WHAT YOU'RE DOING. YOU ARE
4 MAKING SOME VERY SERIOUS ACCUSATIONS.

5 **Q.** SO LET ME TAKE A STEP BACK FOR A SECOND. YOU JUST SAID I
6 THINK WHAT YOU WERE PLANNING ON SAYING. DO YOU RECALL WHICH
7 OF THOSE THINGS YOU SAID BEFORE CHRISTINE STOPPED YOU?

8 **A.** I KNOW I STARTED, LIKE -- TRYING TO START IN ORDER AND
9 PROBABLY STARTED WITH, YOU KNOW, THE ASSHOLES TO COME TO OPCEN
10 AND I COULDN'T GO ON A TEAM BECAUSE I WAS A GIRL.

11 **Q.** CHRISTINE SAID STOP RIGHT THERE?

12 **A.** UH-HUH.

13 **Q.** WHAT ELSE DID SHE SAY?

14 **A.** SHE SAID THINK ABOUT WHAT YOU ARE SAYING BECAUSE YOU ARE
15 MAKING SOME VERY SERIOUS ACCUSATIONS.

16 **Q.** AND WHAT HAPPENED NEXT?

17 **A.** I WENT OUTSIDE WITH RAY JONES. AND I EXPLAINED -- OH,
18 THEY ALSO -- ERIC HAD ALREADY PREVIOUSLY TOLD ME THAT ALL
19 THESE THINGS I HAD ALREADY MENTIONED TO ERIC. HE SAID THAT
20 IT'S JUST HEARSAY UNLESS I GET THE GUYS, JOSE AND MENA AND
21 BILL -- NOT BILL. JOSE, MENA, AND PATRICK, THE THREE GUYS IN
22 MY TRAINING WITH JEFF -- UNLESS I GET THEM TO SAY THAT THEY
23 ARE COMFORTABLE ADMITTING WHAT I SAID HAD WHAT HAPPENED.

24 **Q.** DO YOU RECALL WHEN THE CONVERSATION WITH ERIC PEREZ TOOK
25 PLACE?

1 **A.** NO. BEFORE THE MEETING. MAYBE A MONTH BEFORE THE
2 MEETING. AND ON ANOTHER OCCASION WHEN I BROUGHT IT UP AGAIN,
3 HE SAID, WELL, DID -- YOU KNOW, DID YOU ASK JOSE IF HE IS
4 COMFORTABLE SAYING THAT IS THE TRUTH? DID YOU ASK HIM?

5 SO WE WENT OUT --

6 **Q.** SO IN -- LET'S GO BACK TO THE AUGUST 2ND MEETING. YOU
7 SAID YOU WENT OUTSIDE?

8 **A.** WITH RAY JONES.

9 **Q.** WHAT DID YOU AND RAY JONES DISCUSS?

10 **A.** I TOLD HIM THAT THE OTHER THREE GUYS IN THE CLASS, THEY'VE
11 BEEN REALLY HELPFUL TO ME AND I DON'T FEEL LIKE IT'S RIGHT
12 THAT I SHOULD HAVE TO ASK THEM, TO PUT THEM IN THAT POSITION
13 TO TALK ABOUT, BASICALLY, THEIR BOSS IN A NEGATIVE WAY WHEN WE
14 ARE STILL ON PROBATION. AND I JUST DON'T FEEL COMFORTABLE
15 ASKING THEM DO THAT.

16 **Q.** AND DO YOU RECALL ANYTHING THAT MR. JONES SAID TO YOU?

17 **A.** HE SAID... HE KIND OF SAID, LIKE, I TOTALLY UNDERSTAND
18 WHAT YOU MEAN. YOU SHOULDN'T... YOU SHOULDN'T HAVE TO ASK
19 THEM.

20 **MR. LAFAYETTE:** OBJECTION, HEARSAY.

21 **MS. SMALLETS:** AGAIN, IT GOES TO HER NOTICE AND HER
22 CONDUCT AND WHAT SHE DOES NEXT AND WHY.

23 **THE COURT:** SO, ONLY FOR THAT PURPOSE.

24 LADIES AND GENTLEMEN, MR. JONES ISN'T HERE TO TELL US. HE
25 MAY BE HERE BUT HE IS NOT HERE YET.

1 **BY MS. SMALLETS:**

2 **Q.** AT SOME POINT DO YOU AND MR. JONES GO BACK INTO THE
3 MEETING?

4 **A.** YES.

5 **Q.** DO YOU RECALL WHAT HAPPENS ONCE YOU GO BACK IN?

6 **A.** I THINK THEY JUST TELL ME, YOU KNOW, IF I -- TO THINK
7 ABOUT IT, TO TALK TO THOSE PEOPLE.

8 **Q.** OKAY.

9 **A.** TO TALK TO MY COLLEAGUES AND FIND OUT IF THEY ARE
10 COMFORTABLE.

11 **Q.** DO YOU RECALL HOW -- HOW THE MEETING ENDED?

12 **A.** NO.

13 **Q.** OKAY. I WOULD LIKE TO MOVE FORWARD A LITTLE BIT IN TIME
14 AND TALK ABOUT WHAT HAPPENED ON AUGUST 29TH.

15 DO YOU RECALL -- AND THAT IS THE DAY THAT -- IS THAT THE
16 DAY THE STICKER WAS BROUGHT INTO THE WORKPLACE?

17 **A.** YES.

18 **Q.** OKAY. LET'S TALK ABOUT THAT DAY. WHAT HAPPENED WHEN YOU
19 WALKED IN THAT MORNING?

20 **A.** I WALKED IN THAT MORNING, HAD A SHIFT SWAP WITH ASHTON.
21 JUST REAL QUICK BECAUSE THERE WAS A LOT OF PEOPLE FOR THIS
22 SAFETY MEETING. SO WE ATTENDED THE SAFETY MEETING.

23 **Q.** THEN WHAT HAPPENED NEXT?

24 **A.** SORRY. GAVE MY SHIFT SWAP WITH ASHTON. ASHTON LEFT.

25 AFTER HE LEFT, I WENT TO MY DESK, SAW THE STICKER. THERE WAS

1 A LOT OF PEOPLE. SO I LOOKED AROUND TO SEE IF IT WAS ON
2 ANYONE ELSE'S DESK. IT WASN'T. I FELT LIKE EVERYONE WAS
3 LOOKING AT ME. I GOT KIND OF, LIKE, RED AND EMBARRASSED, SO I
4 WENT TO THE LADIES' ROOM.

5 Q. WHAT DID YOU DO IN THE BATHROOM?

6 A. JUST LIKE WAITED UNTIL I WASN'T LIKE RED, OR I WAS KIND OF
7 LIKE SHAKING BECAUSE I FELT LIKE EVERYONE WAS LOOKING AT ME.
8 SO I WENT TO THE RESTROOM, CAME OUT OF THE RESTROOM. I SAW
9 BILL. HE IS THE FIRST PERSON I SAW AND I WAS, LIKE --

10 Q. HOLD ON. HOLD ON. LET ME ASK SOME QUESTIONS.

11 A. OKAY.

12 Q. DID YOU HAVE A CONVERSATION WITH BILL?

13 A. JUST A QUICK ONE.

14 Q. WHAT DID YOU SAY TO HIM?

15 A. DID YOU BRING IN A STICKER? AND HE SAID NO.

16 Q. THEN WHAT HAPPENED NEXT?

17 A. THEN IT WAS TIME FOR THE SAFETY MEETING. IT WAS ALL VERY
18 FAST. WE WENT INTO THE SAFETY MEETING. ALL THE MANAGERS ARE
19 THERE.

20 Q. WHAT IS THE SAFETY MEETING?

21 A. IT'S A MEETING WE HAVE EVERY MORNING AND JUST HAVE A
22 SAFETY TOPIC OF THE DAY.

23 Q. AFTER THE MEETING, DID YOU TALK TO ANYONE ELSE ABOUT THE
24 STICKER?

25 A. YES. SO AFTER THE MEETING, ERIC PEREZ HAD ATTENDED THE

1 MEETING. HE HAPPENED TO BE WALKING BY.

2 Q. DID YOU SAY SOMETHING TO HIM OR DID HE SAY SOMETHING TO
3 YOU?

4 A. HE CASUALLY SAID, HOW IS IT GOING. I SAID, ACTUALLY, CAN
5 I TALK TO YOU FOR A MINUTE?

6 Q. DID YOU TALK TO HIM THERE OR SOMEWHERE ELSE?

7 A. I TALKED TO HIM THERE. I JUST SAID I FOUND THIS STICKER
8 AND THEN HE WAS, LIKE, WAIT, LET'S -- AND WE WENT INTO THIS
9 OFFICE. JUST ME AND HIM.

10 Q. OKAY. AND DID -- WHAT DID YOU SAY TO HIM?

11 A. I SAID I FOUND THIS ON MY DESK. AND HE TOOK IT AND
12 SAID -- HE SAID THAT'S NOT OKAY, THAT HE WOULD INVESTIGATE IT.

13 Q. OKAY. DID YOU TALK ABOUT ANYTHING ELSE WITH ERIC PEREZ
14 THAT DAY?

15 A. HE ASKED ME WHO WAS THE OPERATOR BEFORE ME AND I SAID IT
16 WAS ASHTON. HE SAID DO YOU THINK ASHTON LEFT THAT AND I SAID
17 NO.

18 Q. DID YOU TALK -- DID YOU TALK ABOUT ANYTHING ELSE WITH
19 MR. PEREZ THAT DAY?

20 A. I JUST -- I ASKED HIM -- I JUST TOLD HIM A LITTLE BIT
21 ABOUT MY COLLEAGUES, THE GUYS ON MY TEAM WEREN'T VERY HELPFUL
22 WHEN I HAD QUESTIONS. SO I DIDN'T KNOW, YOU KNOW, HOW TO
23 GET -- I DIDN'T FEEL I WAS GETTING THE HELP THAT I NEEDED OR
24 THE TRAINING.

25 Q. YOU WERE HERE WHEN MR. PEREZ TESTIFIED?

1 **A.** YES.

2 **Q.** DID YOU HEAR HIM SAY THAT HE SAID THAT HE NEEDED
3 ADDITIONAL INFORMATION FROM YOU TO INVESTIGATE?

4 **A.** YES.

5 **Q.** DID THAT CONVERSATION HAPPEN ON AUGUST 29TH?

6 **A.** YES.

7 **Q.** DID HE ASK YOU THAT?

8 **A.** HE -- HE -- ON A FEW DIFFERENT OCCASIONS HE ASKED ME --
9 WELL, I WOULD BRING IT UP AND HE WOULD SAY, DID YOU TALK TO
10 JOSE. DID YOU TALK TO PATRICK? ARE THEY COMFORTABLE?

11 **Q.** WHAT DID YOU SAY?

12 **A.** I JUST TOLD HIM, AGAIN, I WASN'T -- THAT I WASN'T
13 COMFORTABLE ASKING THEM TO DO THAT.

14 **Q.** OKAY. DID YOU TALK TO ANY OTHER SUPERVISOR THAT DAY
15 REGARDING THE STICKER?

16 **A.** OH. SO ERIC PEREZ MENTIONED TO ME, HE SAID I'M GOING TO
17 LET RICHARD METCALF, MY NEW SUPERVISOR, KNOW ABOUT THIS
18 STICKER.

19 **Q.** DID YOU END UP TALKING TO RICHARD ABOUT THE STICKER?

20 **A.** SO, LATER THAT DAY, RICHARD ASKED IF WE COULD TALK IN HIS
21 OFFICE.

22 **Q.** DO YOU RECALL WHAT HE SAID TO YOU?

23 **A.** HE SAID, ARE YOU -- I NEED TO KNOW, ARE YOU EASILY -- NO.
24 HE SAID, DO YOU FIND THIS OFFENSIVE? I SAID YEAH. HE SAID,
25 ARE YOU EASILY OFFENDED?

1 Q. WHAT DID YOU SAY?

2 A. I SAID NO, NOT REALLY. I JUST -- JUST WANT TO -- OH, HE
3 SAID, ARE YOU -- AND I SAID NO, NOT REALLY. HE SAID BECAUSE I
4 NEED TO KNOW BECAUSE I'M GOING TO HAVE TO TALK TO THESE GUYS
5 ABOUT CHANGING THE WAY THEY TALK. THEY HAVE BEEN WORKING ON
6 THIS TEAM FOR SO LONG AND, IF THEY NEED TO CHANGE THE WAY THEY
7 TALK, I'M GOING TO HAVE TO LET THEM KNOW.

8 Q. WHAT DID YOU SAY IN RESPONSE?

9 A. NO, YOU DON'T HAVE TO DO THAT. I JUST WANT TO DO ANY JOB,
10 GO HOME, GET ALONG WITH EVERYONE.

11 Q. DO YOU RECALL ANYTHING ELSE THAT EITHER YOU OR RICHARD
12 SAID?

13 A. I DIDN'T SAY NO, YOU DON'T HAVE TO DO THAT, BUT I JUST
14 SAID --

15 COURT REPORTER: I'M SORRY.

16 A. I JUST SAID I'M NOT EASILY OFFENDED. I JUST WANTED TO DO
17 MY JOB AND GO HOME AND NOT BE, LIKE, SINGLED OUT.

18 Q. DO YOU RECALL ANYTHING ELSE THAT WAS SAID DURING THAT
19 MEETING? OR THAT CONVERSATION WITH RICHARD?

20 A. NO.

21 Q. OKAY. DO YOU RECALL ANY SAFETY MEETINGS -- WE JUST TALKED
22 ABOUT WHAT A SAFETY MEETING WAS. DO YOU RECALL ANY SAFETY
23 MEETINGS IN WHICH THE TOPIC OF CONVERSATION MADE YOU
24 UNCOMFORTABLE?

25 A. JUST ONE.

1 Q. DO YOU RECALL WHETHER THAT WAS BEFORE OR AFTER THE STICKER
2 CAME INTO THE WORKPLACE?

3 A. IT WAS SHORTLY AFTER.

4 Q. OKAY. TELL US WHAT THE TOPIC OF THE SAFETY MEETING THAT
5 DAY WAS.

6 A. WELL, USUALLY THE SAFETY TOPICS WERE ABOUT THINGS THAT
7 COULD GO WRONG IN THE REFINERY. THEY ARE SPECIFIC TO WHERE WE
8 WORK. BUT THIS CONVERSATION WAS MORE ABOUT LIKE THEIR WIVES
9 AND LIKE -- I THINK THE TOPIC WAS, LIKE TO TRAIN YOUR WIVES SO
10 THEY DON'T PANIC BECAUSE THEY DON'T KNOW HOW TO REACT IN THE
11 CASE OF AN EMERGENCY. IT WASN'T NECESSARILY OFFENSIVE BUT IT
12 WAS JUST -- IT KIND OF LED TO BEING OFFENSIVE BECAUSE IT WAS
13 JUST A LOT OF CATEGORIZING THAT WOMEN WERE NOT ABLE TO REACT
14 UNDER PRESSURE.

15 Q. DID YOU SAY ANYTHING DURING THE MEETING?

16 A. NO.

17 Q. WHY NOT?

18 A. I DIDN'T -- DIDN'T REALLY WANT TO. I JUST... I DIDN'T
19 FEEL LIKE I REALLY NEEDED TO.

20 Q. DID YOU EVER HAVE ANY OTHER CONVERSATIONS WITH ANY SHELL
21 SUPERVISORS ABOUT THE STICKER?

22 A. NOT THAT I CAN REMEMBER.

23 Q. DID YOU EVER HAVE ANY EMAIL EXCHANGES WITH ANY SHELL
24 SUPERVISORS ABOUT THE STICKER?

25 A. YEAH. I FOLLOWED UP WITH ERIC PEREZ.

1 Q. LET'S TAKE A LOOK AT EXHIBIT 51, WHICH WAS PREVIOUSLY
2 ADMITTED INTO EVIDENCE.

3 (DISPLAYED ON SCREEN.)

4 DID YOU -- IS THIS AN EMAIL YOU SENT TO MR. PEREZ?

5 A. YES.

6 Q. AND DO YOU RECALL WHY YOU SENT THIS EMAIL?

7 A. BECAUSE I HAD PREVIOUSLY SENT HIM IN AN EMAIL PRIOR TO
8 THAT AND -- WITH LESS DETAIL AND HE DIDN'T RESPOND. SO I
9 THOUGHT I SHOULD SEND HIM THIS EMAIL TO SEE IF HE HAS DONE ANY
10 INVESTIGATING OR KNOWS WHO LEFT THE STICKER, IF HE WAS GOING
11 TO ADDRESS MY CONCERNS AT ALL.

12 Q. OKAY. DID -- DO YOU RECALL IF YOU RECEIVED A RESPONSE TO
13 THIS EMAIL?

14 A. I THINK I DID RECEIVE ONE TO THE SECOND EMAIL. HE TOLD ME
15 THAT HE WOULD INVESTIGATE IT AND IT WAS NOT TOLERATED.

16 Q. OKAY. LET'S TAKE A LOOK AT EXHIBIT 50, WHICH WAS
17 PREVIOUSLY ADMITTED INTO EVIDENCE. DO YOU RECOGNIZE THIS
18 EMAIL STRING?

19 A. YES.

20 (DISPLAYED ON SCREEN.)

21 Q. CAN YOU TELL US WHAT THIS IS?

22 A. EMAIL TO ERIC PEREZ.

23 Q. WHY DID YOU SEND THIS EMAIL?

24 A. FOLLOWING UP ON OUR PREVIOUS MEETING.

25 Q. OKAY. DID YOU EVER RECEIVE A PERFORMANCE REVIEW FROM

1 RICHARD METCALF?

2 A. YES.

3 Q. LET'S TAKE A LOOK AT EXHIBIT 61, WHICH HAS NOT BEEN
4 ADMITTED. CAN YOU TELL US WHAT EXHIBIT 61 IS?

5 A. 51?

6 Q. 61.

7 A. I DON'T HAVE 61. IT GOES 51. PD LOG?

8 (COUNSEL HANDS WITNESS EXHIBIT.

9 MS. SMALLETS: SORRY ABOUT THAT.

10 THE WITNESS: THAT'S OKAY.

11 BY MS. SMALLETS:

12 Q. CAN YOU TELL US WHAT EXHIBIT 61 IS?

13 A. 61 IS ANOTHER 30-DAY PROGRESS REPORT. THIS IS I THINK --

14 THE COURT: I COULDN'T HEAR THAT.

15 THE WITNESS: 240-DAY PROGRESS REPORT.

16 BY MS. SMALLETS:

17 Q. IS THAT A PROGRESS REPORT THAT RICHARD METCALF GAVE TO
18 YOU?

19 A. YES.

20 MS. SMALLETS: YOUR HONOR, WE WOULD LIKE TO ADMIT
21 EXHIBIT 61 INTO EVIDENCE. ANY OBJECTION?

22 MR. LAFAYETTE: NO OBJECTION.

23 THE COURT: ADMITTED.

24 (PLAINTIFF'S EXHIBIT 61 RECEIVED IN EVIDENCE)

25 (DISPLAYED ON SCREEN.)

1 **BY MS. SMALLETS:**

2 **Q.** DID YOU HAVE A CONVERSATION WITH MR. METCALF ABOUT THIS
3 PROGRESS REVIEW -- OR WHEN HE GAVE IT TO YOU?

4 **A.** YEAH.

5 **Q.** WHAT DID HE SAY TO YOU?

6 **A.** HE WAS REALLY POSITIVE. HE TOLD ME THAT HE CAME IN HERE
7 WITH A BLANK SLATE, AND THAT HE THOUGHT I WAS RIGHT WHERE I
8 SHOULD BE, THAT I WAS A GOOD OPERATOR, AND I WALKED AWAY FROM
9 THAT MEETING FEELING REALLY GOOD. HE TOLD ME I SHOULD
10 PROBABLY START TRAINING ON MY SECOND JOB.

11 **Q.** DID YOU SAY ANYTHING TO HIM IN RESPONSE TO THAT? ABOUT
12 TRAINING ON YOUR SECOND JOB?

13 **A.** I TOLD HIM THAT I WANTED TO BUT THAT I WAS NERVOUS TO DO
14 THAT WITH THE WAY I HAD BEEN TRAINED AND DOCUMENTED IN HP-2,
15 THAT I WANTED TO BE REALLY, REALLY CONFIDENT ON HP-2 BEFORE I
16 MOVED FORWARD.

17 **Q.** AT ANY POINT IN TIME, DID YOU START TRAINING ON YOUR NEXT
18 JOB?

19 **A.** THE NEXT DAY I SHOWED UP -- THE NEXT DAY OR THE NEXT DAY
20 OR TWO, I SHOWED UP EARLY TO WORK WITH JOHN HESS JUST SO HE
21 CAN SHOW ME WHAT THE NEXT JOB IS, THE NEXT UNIT.

22 **Q.** DID YOU GO THROUGH THE WRITTEN REVIEW WITH MR. METCALF
23 DURING THAT MEETING?

24 **A.** YES.

25 **Q.** OKAY. DO YOU RECALL ANYTHING HE SAID TO YOU ABOUT ANY OF

1 THE SPECIFICS IN THIS REVIEW?

2 **A.** NO. I KNOW HE -- ONE THING HE MENTIONED WAS HE HAD A
3 CONCERN ABOUT A QUESTION HE ASKED ME BUT THEN HE REALIZED
4 THAT -- HE THOUGHT I DIDN'T KNOW BUT HE -- HE REALIZED THAT HE
5 WAS WRONG. THAT IT WAS JUST A CONFIDENCE ISSUE.

6 **Q.** CAN YOU TELL US ABOUT THAT? WHAT HAPPENED?

7 **A.** WE WERE OUT IN THE UPSET. SO SOMETHING WAS RUNNING
8 ABNORMALLY IN THE UNIT. AND IT WAS LIKE ONE OF OUR FIRST
9 TIMES WORKING TOGETHER. AND HE IS THE SUPERVISOR, THE NEW
10 SUPERVISOR IN REPLACE OF CAMERON.

11 AND SOMETHING WAS HAPPENING, AND HE WAS -- HE SAID, WHAT'S
12 IN THAT PIPE. IT IS PART OF THE UPSET. AND I TOLD HIM WHAT
13 WAS IN THE PIPE. AND THEN HE SAID, ARE YOU SURE. AND INSTEAD
14 OF ME SAYING, YES, I'M SURE, I PULLED OUT MY NOTES THAT I HAD
15 AND THEN SAID YES, I'M SURE.

16 LATER WHEN WE TALKED ABOUT IT, HE ASKED ME, YOU KNOW, WHY
17 DID I HAVE TO LOOK AT MY NOTES, WHY DIDN'T I JUST SAID YES.

18 I TOLD HIM BECAUSE WE WERE IN THE UPSET SITUATION AND HE
19 ASKED ME ARE YOU SURE, I THOUGHT HE DIDN'T KNOW THE ANSWER AND
20 HE WANTED ME TO BE SURE.

21 SO I HAD THE NOTE. I ANSWERED IT CORRECTLY. AND I JUST
22 DOUBLE-CHECKED TO BE SURE BECAUSE I THOUGHT IT WAS -- I DIDN'T
23 KNOW IT WAS A TEST QUESTION. I THOUGHT IT WAS A REAL
24 IN-THE-MOMENT ARE YOU SURE, AND SO I DOUBLE-CHECKED.

25 **Q.** OKAY.

1 DID YOU -- DO YOU RECALL REVIEWING WHAT RICH -- WHAT
2 MR. METCALF'S RECOMMENDATION WAS WITH RESPECT TO YOUR
3 CONTINUED EMPLOYMENT AT SHELL?

4 **A.** YEAH. I REMEMBER HIM AT THE END OF THE MEETING SAYING
5 THAT I WAS A REALLY GOOD OPERATOR AND HE THOUGHT I SHOULD
6 CONTINUE. AND I FELT REALLY GOOD THAT I HAD A NEW SUPERVISOR
7 THAT GAVE ME A CHANCE.

8 **Q.** DURING YOUR EMPLOYMENT, DID ANYONE EVER TELL YOU THAT THEY
9 THOUGHT YOU HAD MADE A MISTAKE WITH RELATING TO A HOT WORK
10 PERMIT IN --

11 **A.** NO.

12 **Q.** WHAT IS A HOT WORK PERMIT?

13 **A.** A HOT WORK PERMIT IS A PERMIT THAT WE DON'T HAVE AUTHORITY
14 TO WRITE, THAT THEY HAVE -- YOU HAVE SPECIAL TRAINING BEFORE
15 YOU CAN WRITE A HOT WORK PERMIT.

16 **Q.** DID YOU EVER ATTEMPT TO --

17 **A.** JUST BECAUSE --

18 **Q.** GO AHEAD. I'M SORRY.

19 **A.** JUST BECAUSE THEY REQUIRE -- THAT HOT WORK IS BEING DONE
20 NEXT TO FLAMMABLE GASES, SO EVERYTHING HAS TO BE ISOLATED. WE
21 NEED MORE TRAINING BEFORE WE CAN WRITE THE PERMITS.

22 **Q.** DO YOU KNOW WHAT HOT MEANS?

23 **A.** LIKE HEATED.

24 **Q.** OKAY. DO YOU -- WERE YOU ALLOWED TO ISSUE A HOT WORK
25 PERMIT?

1 **A.** NO.

2 **Q.** DO YOU KNOW IF ANY OF THE NEW HIRES WERE ALLOWED TO ISSUE
3 A HOT WORK PERMIT?

4 **A.** NO.

5 **Q.** DID YOU EVER ISSUE ONE?

6 **A.** NO.

7 **Q.** DID YOU EVER ATTEMPT TO ISSUE ONE?

8 **A.** NO.

9 **Q.** DID YOU HAVE ANY INTERACTIONS WITH MIKE CUTSHAW REGARDING
10 A PERMIT?

11 **A.** NO. I MEAN, WE RAN A LOT OF PERMITS AND SOMETIMES WE NEED
12 OTHER PEOPLE TO SIGN OFF ON THEM. SO IF THEY ARE PERMITS WE
13 ARE NOT QUALIFIED TO WRITE, WE HAVE TO GRAB SOMEONE WHO'S
14 QUALIFIED, AND SAY LIKE, LOW ENERGY PERMITS. WE NEED TO GRAB
15 SOMEONE WHO IS QUALIFIED. WE CAN ONLY WRITE SAFETY PERMITS.
16 SO IT IS POSSIBLE THAT I HAD MIKE CUTSHAW SIGN OFF ON PERMITS
17 THAT I WASN'T ALLOWED TO WRITE.

18 **Q.** LET ME MAKE SURE I UNDERSTAND THIS. CAN YOU TELL ME WHAT
19 ARE THE CATEGORIES OF PERMITS THAT YOU WERE -- WHAT ONES WERE
20 YOU ALLOWED TO WRITE AND WHAT WEREN'T YOU ALLOWED TO WRITE?

21 **A.** IT HAS BEEN A LONG TIME BUT I THINK WE ARE ONLY ALLOWED TO
22 WRITE SAFETY PERMITS.

23 **Q.** AND --

24 **A.** SAFETY PERMITS, THEY ARE NOT RELATED TO ANY KIND OF HOT
25 WORK OR ANY HIGH ENERGY.

1 Q. OKAY. WAS THERE ANOTHER CATEGORY OF PERMITS THAT YOU
2 NEEDED SOMEONE ELSE'S SIGNATURE ON?

3 A. I THINK IT IS JUST THOSE TWO.

4 Q. OKAY.

5 A. THAT I REMEMBER.

6 Q. DID YOU EVER TALK TO MIKE CUTSHAW ABOUT A HOT WORK PERMIT?

7 A. NOT THAT I SPECIFICALLY -- NOT SPECIFICALLY THAT I
8 REMEMBER.

9 Q. OKAY. DID YOU HAVE ANY INTERACTIONS WITH MR. CUTSHAW THAT
10 STAND OUT IN YOUR MIND?

11 A. ONE INCIDENT THAT STANDS OUT IN MY MIND IS THAT ANOTHER
12 UPSET BUT NOT IN MY UNIT. SO I WENT TO ASSIST. IT WAS IN
13 MIKE'S UNIT.

14 Q. HOLD ON A SECOND. TELL US WHAT AN UPSET IS.

15 A. IT IS WHEN OPERATIONS RUN ABNORMALLY.

16 Q. AND SO MIKE'S ANOTHER OPERATOR AT THAT TIME?

17 A. YES.

18 Q. YOU GO TO ASSIST HIM?

19 MR. LAFAYETTE: OBJECTION, LEADING.

20 THE COURT: SUSTAINED.

21 BY MS. SMALLETS:

22 Q. YOU SO TELL US WHAT HAPPENED.

23 A. I WENT OUT TO HELP MIKE IN HIS UNIT.

24 Q. AND --

25 A. GET A LITTLE EXPERIENCE OF ANOTHER UNIT.

1 Q. WHAT DID YOU DO TO HELP HIM?

2 A. HE WAS WORKING ON SOMETHING HIGH AND HIS -- THE EQUIPMENT
3 WAS DOWN LOW BUT ONLY ONE OF US COULD BE UP THERE. AND HE'S
4 THE QUALIFIED OPERATOR ON THAT UNIT, SO HE'S DOING ALL THE
5 WORK. BUT I WAS TRYING TO ANTICIPATE WHAT HE NEEDED NEXT, SO
6 I WAS HANDING -- YOU KNOW, WE WERE EXCHANGING THINGS VERY FAST
7 BECAUSE HE WAS WORKING FAST.

8 Q. DID HE SAY ANYTHING TO YOU?

9 A. AND HE STARTED TO SAY -- HE SAID, YOU'RE REALLY GOOD OP --
10 HE STARTED TO SAY OPERATOR. AND I SAID YOU ARE A REALLY GOOD
11 DENTAL ASSISTANT. THAT STICKS OUT IN MY MIND. BUT OTHER THAN
12 THAT, NOTHING REALLY.

13 Q. LET'S TURN YOUR ATTENTION TO THE MEETING IN WHICH YOU
14 FOUND OUT YOU WERE BEING TERMINATED.

15 A. OKAY.

16 Q. HOW DID THAT DAY START? HOW DID YOU FIRST LEARN YOU --
17 HOW DID YOU FIRST LEARN YOU WERE GOING TO BE TERMINATED?

18 A. I DIDN'T -- THE DAY STARTED OUT NORMAL. I WAS WORKING MY
19 UNIT. I GOT A CALL ON THE RADIO TO COME TO THE EAST SIDE
20 DOOR, WHICH IS SOMETHING UNUSUAL.

21 Q. WHEN YOU GOT THERE --

22 A. SO WHEN I WALKED TO THE DOOR --

23 Q. WHEN YOU GOT THERE, WHAT IS THERE SOMEONE THERE?

24 A. YES. WHEN I WALKED TO THE DOOR, ERIC PEREZ WAS THERE.

25 Q. AND WHAT DID YOU AND ERIC DO NEXT?

1 **A.** HE SAID COME WITH ME, WE ARE GOING TO GO FOR A RIDE. AND
2 THEN, SO I WENT IN HIS CAR AND HE -- WE WENT, DROVE DOWN TO
3 THE SHELL BUILDING.

4 **Q.** DID YOU -- WHAT IS THE SHELL BUILDING?

5 **A.** IT IS THE BUILDING WHERE ALL THE OFFICE PEOPLE WORK. A
6 LITTLE BIT FARTHER THAN WHERE WE WORK.

7 **Q.** DID YOU TALK ABOUT ANYTHING WITH ERIC IN THE CAR?

8 **A.** I ASKED HIM IS EVERYTHING OKAY, DID I DO SOMETHING WRONG?

9 **Q.** WHAT DID --

10 **A.** HE SAID NO, NO.

11 **Q.** OKAY. WHEN YOU GET TO THE SHELL BUILDING, WHAT DO YOU DO
12 NEXT?

13 **A.** WE WALK IN, WE GO UPSTAIRS. I'M JUST FOLLOWING ERIC AND
14 THEN WE WALK IN -- THEN WE MEET RAY JONES. THEN WE WALK INTO
15 CHRISTINE'S OFFICE.

16 **Q.** WAS ANYONE ELSE THERE?

17 **A.** SHE'S SITTING THERE WITH MIKE BECK NEXT TO HER.

18 **Q.** WHO IS MIKE BECK?

19 **A.** ANOTHER MANAGER -- HIGHER UP MANAGER, WHO IS NOT REALLY IN
20 THE FIELD. MORE LIKE IN AN OFFICE.

21 **Q.** PRIOR TO THAT TIME THAT YOU -- PRIOR TO THAT MEETING, HAD
22 YOU HAD INTERACTIONS WITH MIKE BECK?

23 **A.** JUST IN PASSING, HELLO, HERE OR THERE. MAYBE LESS THAN --
24 WELL, MAYBE LESS THAN TEN TIMES. HE WOULD BE AT A LOT OF
25 SAFETY MEETINGS. NOTHING MORE THAN A HELLO.

1 Q. AND WHAT WERE YOU TOLD DURING THAT MEETING?

2 A. SO WHEN WE WALKED IN, I ALREADY SAW ON HER DESK THERE WAS,
3 LIKE, AN EMPLOYMENT HANDBOOK. SO I ALREADY KNEW. AND THEN
4 LET'S SEE.

5 SO THEN THEY SAID, OKAY, HAVE A SEAT. AND SHE SAID
6 THIS -- YOU'RE BEING TERMINATED FROM SHELL, THIS -- YOU CAN
7 SIGN HERE. THIS IS AN UNEMPLOYMENT BOOK. AND THEN I LOOK TO
8 MIKE BECK BECAUSE HE'S THE ONLY ONE IN THAT ROOM THAT I SAW
9 THE MOST IN MY WORKPLACE AND I SAID WHY? WHY AM I BEING
10 FIRED?

11 Q. AND WHAT DID HE SAY?

12 A. HE STARTED TO EXPLAIN TO ME, WELL, THERE WAS THIS ONE
13 SITUATION WHERE I HEARD THERE WAS AN UPSET AND EVERYONE WENT
14 OUT THERE AND YOU DIDN'T. AND THEN CHRISTINE LAYNE STOPPED
15 HIM AND SHE SAID, STOP. THIS IS NOT THE TIME TO DISCUSS. WE
16 DON'T NEED TO TELL YOU WHY. IF YOU WANT TO KNOW WHY, YOU NEED
17 TO FILE -- YOU NEED TO TALK WITH THE UNION AND FILE A
18 GRIEVANCE.

19 Q. WHAT HAPPENED NEXT IN THAT MEETING?

20 A. I THINK ME AND RAY JONES STEPPED OUTSIDE.

21 Q. WHAT DID YOU TALK ABOUT?

22 A. NOTHING. JUST -- JUST COLLECTED MYSELF, AND I PROBABLY
23 MENTIONED, LIKE, THIS IS UNFAIR AND HE SAID WE'LL TALK ABOUT
24 THIS LATER. WE'LL HAVE A MEETING AND YOU CAN TELL ME, YOU
25 KNOW, HOW YOU FEEL. AND HE GAVE ME HIS PHONE NUMBER AND TOLD

1 ME TO CALL HIM. SO THEN I --

2 Q. WHAT HAPPENED NEXT?

3 A. SO THEN I HAD TO GET BACK IN THE CAR WITH ERIC. THEN GO
4 BACK TO HP-2 WHERE THERE WAS SECURITY. SORRY. SO THEN THERE
5 WAS SECURITY WAITING FOR ME. AND I HAD TO GET ALL MY THINGS.
6 SORRY.

7 THE COURT: DO WE HAVE A TISSUE?

8 A. SO, BASICALLY, I JUST HAD TO GO GET ALL MY THINGS FROM
9 SECURITY WHILE EVERYONE IS LIKE STARING AND I CAN'T TALK TO
10 ANYONE. AND THAT WAS -- AND THEN ERIC -- ERIC PEREZ HAD TO
11 ESCORT ME ALL THE WAY OUT, ALL THE WAY OUT TO MY CAR, ALL THE
12 WAY UNTIL I DRIVE ALL THE WAY OUT THE GATES. I AM SORRY.
13 EXCUSE ME.

14 ALL RIGHT. NEXT QUESTION.

15 Q. ARE YOU OKAY?

16 A. YEAH.

17 Q. WHEN MIKE BECK SAID TO YOU THAT THERE WAS AN INCIDENT WITH
18 THE UNITS AND YOU WERE TOLD THAT YOU DIDN'T GO OUT, DO YOU
19 HAVE ANY IDEA WHAT HE IS TALKING ABOUT?

20 A. I DIDN'T AT THE TIME AND I TRIED TO THINK ABOUT IT. AND
21 THERE WAS ONE INCIDENT IN THE BEGINNING --

22 Q. SURE. CAN YOU TELL US ABOUT THAT INCIDENT?

23 A. MENA KIND OF MENTIONED IT EARLIER. I WAS OUT WITH JEFF
24 FISCHER AND AN ALARM SOUNDED. SO JEFF FISCHER -- IT IS
25 UNUSUAL FOR THE ALARM TO SOUND. SO JEFF FISCHER, HE SAID GO

1 BACK IN THE UNIT. THIS IS STILL WHILE WE WERE IN TRAINING.

2 AND HE SAID GO BACK IN THE UNIT WHEN YOU HEAR THAT ALARM.
3 SO I GO BACK IN THE UNIT AND HE STAYED OUT. IT WASN'T A
4 DIFFERENT UNIT THAN THE ONE WE ARE BEING TRAINED ON. SO I'M
5 SITTING THERE AND THEN I REALIZE, LIKE, SOME TIME PASSES AND I
6 REALLY DON'T KNOW WHAT IS GOING ON. BUT I REALIZE THAT THE
7 OTHER GUYS NEVER CAME BACK IN, THAT I'M SITTING IN THERE
8 ALONE.

9 SO THEN EVENTUALLY I GO, LIKE, KIND OF PEAK MY HEAD OUT
10 AND I SEE THAT MENA, PATRICK AND JOSE ARE OUT WITH JEFF
11 FISCHER. THEY ARE WORKING WITH ALL THE OTHER GUYS. NOT
12 REALLY WORKING, BUT OBSERVING. MAYBE ONE OF THEM TURNED A
13 VALVE.

14 AND SO I WALK OVER THERE AND, REALLY, WE WEREN'T DOING
15 MUCH. WE WERE BE JUST OBSERVING. BUT I WAS IN THE CLASSROOM
16 FOR A LONG TIME BUT I -- THAT IS WHERE I THOUGHT I WAS
17 SUPPOSED TO BE. THAT IS WHERE JEFF SENT ME. I WAS OUTSIDE
18 WHEN THE ALARM STARTED AND HE SENT ME BACK. HE SAID WHEN YOU
19 HEAR THAT ALARM, GO BACK, IT IS NOT SAFE TO BE OUT HERE.

20 AND THAT IS THE ONLY ONE THAT I COULD TRY TO THINK OF WHAT
21 HE COULD BE REFERRING TO. BUT HE DIDN'T GET TO FINISH HIS
22 STORY, SO I DON'T KNOW.

23 Q. LET'S DO A LITTLE BIT OF -- SOME HOUSEKEEPING FOR A
24 MOMENT.

25 AFTER YOU WERE FIRED, DID YOU RETAIN A LAWYER?

1 **A.** YES.

2 **Q.** AND WITH THE ASSISTANCE OF YOUR ATTORNEY, DID YOU FILE A
3 COMPLAINT WITH THE DFEH?

4 **A.** YES.

5 **Q.** LET'S TAKE A LOOK AT EXHIBIT 143. DO YOU RECOGNIZE -- IS
6 THAT THE COMPLAINT THAT YOU FILED?

7 **A.** YES.

8 **MS. SMALLETS:** WE MOVE THAT 143 BE ADMITTED INTO
9 EVIDENCE.

10 **THE COURT:** ANY OBJECTION?

11 **MR. LAFAYETTE:** I DON'T KNOW IF WE NEED THE DOCUMENT.
12 JUST THE DATE, YOUR HONOR.

13 **MS. SMALLETS:** OH. THAT'S FINE.

14 **THE COURT:** OKAY. SO WHAT IS THE DATE?

15 **MR. LAFAYETTE:** MAY 24, 2017.

16 **MS. SMALLETS:** IF THERE IS A STIPULATION THAT THE
17 COMPLAINT WAS FILED ON MAY 24TH, 20 --

18 **MR. LAFAYETTE:** 17.

19 **MS. SMALLETS:** LET ME MAKE SURE I SAID THE DATE
20 RIGHT.

21 **THE COURT:** IS THERE A STIPULATION?

22 **MR. LAFAYETTE:** YES.

23 **MS. SMALLETS:** THEN WE DON'T NEED TO ADMIT THIS.
24 THAT'S FINE.

25 **THE COURT:** ALL RIGHT. STIPULATION IS ACCEPTED.

1 **MS. SMALLETS:** I'M SORRY. STIPULATION THAT THE RIGHT
2 TO SUE NOTICE WAS SERVED --

3 **THE COURT:** CANNOT HEAR.

4 **MS. SMALLETS:** AND A STIPULATION THAT THE RIGHT TO
5 SUE NOTICE WAS SERVED ON SHELL.

6 **THE COURT:** IS THERE A STIPULATION?

7 **MR. LAFAYETTE:** I WILL STIPULATE TO THE DATE OF THE
8 RIGHT TO SUE LETTER.

9 **MS. SMALLETS:** OKAY. ALL RIGHT.

10 **THE COURT:** AND THAT DATE IS?

11 **MS. SMALLETS:** IT IS THE SAME DATE.

12 **MR. LAFAYETTE:** SAME DATE, MAY 24.

13 **THE COURT:** STIPULATION IS ACCEPTED.

14 **BY MS. SMALLETS:**

15 **Q.** ALL RIGHT. LET'S TAKE A QUICK LOOK IN YOUR BINDER AT
16 EXHIBIT 150A. AND I'M HOPING THAT YOUR BINDER -- THAT THESE
17 EXHIBITS ARE RIGHT IN YOUR BINDER.

18 **A.** THIS IS A PAY STUB?

19 **Q.** YES. PAY STUB. CAN YOU TELL US WHAT THIS IS?

20 **A.** PAY STUB FROM SHELL.

21 **MS. SMALLETS:** YOUR HONOR, WE WOULD LIKE TO ADMIT
22 EXHIBIT 150A INTO EVIDENCE. WE PROVIDED 150A THIS MORNING.
23 IT IS A SUBSET OF 150.

24 **THE COURT:** ANY OBJECTION TO 150A?

25 **MR. LAFAYETTE:** NO, YOUR HONOR.

1 **THE COURT:** ADMITTED.

2 (PLAINTIFF'S EXHIBIT 150A RECEIVED IN EVIDENCE)

3 (DISPLAYED ON SCREEN.)

4 **BY MS. SMALLETS:**

5 **Q.** TAKE A LOOK AT EXHIBIT 160.

6 **MR. LAFAYETTE:** 50 -- I COULDN'T HEAR.

7 **MS. SMALLETS:** 60.

8 **THE COURT:** 160.

9 **THE WITNESS:** SHELL BENEFITS.

10 **BY MS. SMALLETS:**

11 **Q.** YES. CAN YOU TELL US WHAT THAT IS?

12 **A.** GUIDES TO BENEFITS AT SHELL.

13 **MS. SMALLETS:** WE MOVE EXHIBIT 160 BE ADMITTED INTO
14 EVIDENCE.

15 **THE COURT:** ANY OBJECTION?

16 **MR. LAFAYETTE:** NO, YOUR HONOR.

17 **THE COURT:** 160 IS ADMITTED.

18 (PLAINTIFF'S EXHIBIT 160 RECEIVED IN EVIDENCE)

19 (DISPLAYED ON SCREEN.)

20 **BY MS. SMALLETS:**

21 **Q.** LET'S TAKE A LOOK AT EXHIBIT 164. IS THIS INFORMATION YOU
22 RECEIVED ABOUT YOUR BENEFITS AT SHELL?

23 **A.** YES.

24 **MS. SMALLETS:** WE MOVE THAT EXHIBIT 164 BE ADMITTED
25 INTO EVIDENCE.

1 **THE COURT:** ANY OBJECTION?

2 **MR. LAFAYETTE:** NO OBJECTION. NO, YOUR HONOR.

3 **THE COURT:** IT'S ADMITTED.

4 (PLAINTIFF'S EXHIBIT 164 RECEIVED IN EVIDENCE)

5 **BY MS. SMALLETS:**

6 **Q.** LET'S TAKE A LOOK AT 194. IS THIS PORTIONS OF SOME
7 ADDITIONAL BENEFIT INFORMATION YOU RECEIVED FROM SHELL?

8 **A.** YES.

9 **MS. SMALLETS:** WE MOVE THAT 194A BE ADMITTED INTO
10 EVIDENCE.

11 **THE COURT:** ANY OBJECTION?

12 **MR. LAFAYETTE:** NO OBJECTION.

13 **THE COURT:** ADMITTED.

14 (PLAINTIFF'S EXHIBIT 194A RECEIVED IN EVIDENCE)

15 **BY MS. SMALLETS:**

16 **Q.** DID -- DURING YOUR EMPLOYMENT AT SHELL, DID YOU RECEIVE
17 ANY INFORMATION FROM THE COMPANY ABOUT WHAT YOUR -- WHAT YOUR
18 PAY WOULD BE IN THE FUTURE?

19 **A.** YES. THERE'S A UNION AGREED PAY -- PAY AGREEMENT FOR,
20 LIKE, SIX YEARS. EVERY TIME --

21 **Q.** GO AHEAD.

22 **A.** -- YOU QUALIFY ON A JOB, YOU GET A RAISE.

23 **Q.** OKAY. LET'S TAKE A LOOK AT EXHIBIT 177A. DO YOU HAVE
24 177A?

25 **A.** ARTICLES OF AGREEMENT?

1 Q. TAKE A LOOK AT THE SECOND PAGE.

2 A. OKAY.

3 Q. IS THAT THE PAY CHART YOU WERE REFERENCING?

4 A. YES.

5 MS. SMALLETS: WE MOVE 177A.

6 MR. LAFAYETTE: I OBJECT TO NOT HAVING THE ENTIRE
7 AGREEMENT.

8 THE COURT: WE HAVE 177. I THINK THIS WAS AN ATTEMPT
9 TO KEEP THE PAGES DOWN. WE'LL TALK ABOUT -- YOU CAN SHOW IT,
10 THIS ONE. WE CAN TALK ABOUT WHETHER THE WHOLE THING COMES IN
11 OR JUST THE PAGE.

12 MS. SMALLETS: OKAY. HAS 177A BEEN ADMITTED?

13 THE COURT: YES. AND I'LL RESERVE ON THE ENTIRETY OF
14 THE DOCUMENT.

15 (PLAINTIFF'S EXHIBIT 177A RECEIVED IN EVIDENCE)

16 BY MS. SMALLETS:

17 Q. AND DID YOU -- DID YOU HAVE AN UNDERSTANDING ABOUT WHETHER
18 YOU WOULD WORK OVERTIME -- DID YOU WORK ANY OVERTIME WHILE YOU
19 WERE AT SHELL?

20 A. YES. THERE IS A LOT OF OVERTIME AVAILABLE DURING
21 TURNAROUNDS AND WITH FIRE TRAINING.

22 Q. DID YOU WORK ANY OVERTIME WHILE YOU WERE THERE?

23 A. YES.

24 Q. LET'S -- I WANT TO TALK A LITTLE BIT ABOUT YOUR JOB
25 SEARCH. WHAT TYPES OF JOBS DID YOU START LOOKING FOR?

1 **A.** I STARTED LOOKING FOR SIMILAR JOBS. SIMILAR BUT A LITTLE
2 DIFFERENT. I STARTED LOOKING FOR WASTE WATER PLANTS, WASTE
3 WATER TREATMENT, MANUFACTURING JOBS, SAFETY JOBS, LIKE SAFETY
4 SUPERVISOR JOBS.

5 **Q.** DID YOU FIND ANY JOBS TO APPLY FOR?

6 **A.** YES.

7 **Q.** CAN YOU TELL US, DID YOU APPLY FOR ANY MANUFACTURING JOBS?

8 **A.** FOR EXAMPLE, THERE'S LIKE THE BUDWEISER FACTORY AND
9 ACTUALLY THEIR PROCESS IS, LIKE, SIMILAR TO REFINERY BUT,
10 LIKE, MUCH SMALLER. BUT THE JOB IS VERY MUCH THE SAME AS A
11 REFINERY OPERATOR. THEY ARE ALSO PROCESS OPERATORS. SO I
12 APPLIED THERE.

13 **Q.** DID YOU GET THAT JOB?

14 **A.** NO.

15 **Q.** CAN YOU RECALL OTHER PROCESS OPERATOR TYPE JOBS YOU
16 APPLIED FOR?

17 **A.** THE CITY. SOME CITY WATER TREATMENT PLANTS. THEY ARE NOT
18 REFINERIES, BUT THEY ARE PROCESS OPERATOR, SIMILAR KIND OF
19 POSITION.

20 **Q.** DID YOU GET THAT JOB?

21 **A.** NO.

22 **Q.** YOU SAID YOU APPLIED FOR SOME POSITIONS THAT RELATED TO
23 SAFETY?

24 **A.** YEAH. JUST TRYING TO WORK WITH THE EXPERIENCE I GOT AT
25 SHELL. RESEARCHED JOBS RELATING TO SAFETY AND APPLIED FOR

1 THOSE, AT DIFFERENT SAFETY SUPERVISOR JOBS ON, LIKE,
2 CONSTRUCTION SITES.

3 Q. DID YOU GET ANY INTERVIEWS?

4 A. NO. NO. NOT IN PERSON.

5 Q. DID YOU GET AN INTERVIEW FOR THE POSITION AT BUDWEISER?

6 A. NO.

7 Q. WHAT ABOUT THE WATER TREATMENT PLANT POSITION, DID YOU GET
8 AN INTERVIEW THERE?

9 A. NO.

10 Q. DID YOU APPLY FOR ANY POSITIONS AT REFINERIES?

11 A. NO.

12 Q. WHY NOT?

13 A. CHEVRON WAS HIRING, LIKE, WITHIN A MONTH THAT I WAS LET GO
14 AND I JUST WASN'T FEELING READY TO REENTER THAT ENVIRONMENT,
15 BUT NOW I AM. BUT THEY HAVEN'T HIRED SINCE.

16 Q. DID YOU -- WHERE DID YOU LOOK TO FIND JOBS TO APPLY FOR?

17 A. I LOOKED ONLINE, MONSTER, INDEED, DIRECTLY AT THE WEBSITES
18 THAT I KNEW OF. CONOCO, PHILLIPS, TESORO, VALERO. MOSTLY
19 ONLINE SEARCHES. IN THE BEGINNING OR THROUGHOUT THE WHOLE
20 TIME?

21 Q. THROUGHOUT THE WHOLE TIME.

22 A. EVENTUALLY, WHEN I REALIZED, I GUESS, I DIDN'T HAVE ENOUGH
23 EXPERIENCE FOR THOSE JOBS I WAS APPLYING, I STARTED APPLYING
24 AGAIN FOR DENTAL ASSISTING JOBS, AND I DROPPED A LOT OF
25 RÉSUMÉS OFF IN PERSON BECAUSE THEY ARE SMALLER BUSINESSES.

1 Q. DID YOU ULTIMATELY GET A POSITION AS A DENTAL ASSISTANT?

2 A. YEAH. IN BENECIA.

3 Q. DO YOU RECALL WHEN YOU STARTED THAT JOB?

4 A. NOVEMBER OF 2017.

5 Q. WHY DIDN'T YOU START LOOKING FOR DENTAL ASSISTANT
6 POSITIONS RIGHT AWAY?

7 A. JUST BECAUSE I HAD ALREADY DONE THAT AND I KNOW THAT I
8 WOULD BE TAKING A BIG STEP BACK, SO I WAS HOPING TO FIND
9 SOMETHING ELSE.

10 Q. DID YOU DO ANYTHING FOR WORK -- DID YOU DO ANYTHING THAT
11 EARNED YOU MONEY BEFORE YOU GOT THE JOB AT CARQUINEZ DENTAL
12 GROUP?

13 A. I DID SOME, LIKE, SIDE WORK JOBS.

14 Q. WHAT KIND OF WORK?

15 A. LIKE PRODUCT DEMONSTRATING IN STORES.

16 Q. DID YOU APPLY FOR -- DO YOU RECALL ANY OTHER JOBS AT
17 MANUFACTURING COMPANIES THAT YOU APPLIED FOR?

18 A. THERE ALSO THE IT WAS LIKE A CHOCOLATE -- JUST DIFFERENT
19 MANUFACTURING JOBS. LOTS OF DIFFERENT JOBS. NOTHING THAT
20 STICKS OUT.

21 Q. OKAY. DID YOU ASK MIKE JOYCE FOR HELP IN YOUR JOB SEARCH?

22 A. NO.

23 Q. WHY NOT?

24 A. JUST -- IT NEVER CROSSED MY MIND. HE WAS OUR INSTRUCTOR
25 AND HE DIDN'T REALLY HAVE -- HE WASN'T JOB PLACEMENT PERSON.

1 HE JUST PREPARED US FOR INTERVIEWS.

2 Q. LET'S TAKE A LOOK AT EXHIBIT 147. CAN YOU TELL US WHAT
3 THAT IS?

4 A. RÉSUMÉ.

5 Q. IS THAT A RÉSUMÉ THAT YOU PREPARED AFTER YOUR TERMINATION
6 FROM SHELL?

7 A. YEAH.

8 MS. SMALLETS: WE MOVE THAT 147 BE ADMITTED INTO
9 EVIDENCE.

10 THE COURT: ANY OBJECTION?

11 MR. LAFAYETTE: NO, YOUR HONOR.

12 THE COURT: ADMITTED.

13 (PLAINTIFF'S EXHIBIT 147 RECEIVED IN EVIDENCE)

14 BY MS. SMALLETS:

15 Q. LET'S TAKE A LOOK AT EXHIBIT 148.

16 (DISPLAYED ON SCREEN.)

17 CAN YOU TELL US WHAT THAT IS?

18 A. JUST THE EMAIL INQUIRING ABOUT A DENTAL ASSISTANT JOB.

19 Q. LET'S TAKE A LOOK AT -- THERE IS MULTIPLE DOCUMENTS HERE.

20 A. ALL THE SAME THING, EMAILS.

21 Q. ARE THOSE EMAILS THAT YOU SENT AS PART OF YOUR JOB SEARCH?

22 MR. LAFAYETTE: OBJECTION, LEADING.

23 THE COURT: SUSTAINED.

24 THE WITNESS: YES.

1 **BY MS. SMALLETS:**

2 **Q.** SORRY. THE OBJECTION WAS SUSTAINED SO I HAVE TO ASK
3 ANOTHER QUESTION. CAN YOU TELL ME WHAT THESE EMAILS ARE?

4 **A.** THEY ARE EMAILS FOR SOME OF THE JOB SEARCHES.

5 **MS. SMALLETS:** WE ASK EXHIBIT 148 BE ADMITTED INTO
6 EVIDENCE.

7 **THE COURT:** ANY OBJECTION?

8 **MR. LAFAYETTE:** NO, YOUR HONOR.

9 **THE COURT:** ADMITTED.

10 (PLAINTIFF'S EXHIBIT 148 RECEIVED IN EVIDENCE)

11 **BY MS. SMALLETS:**

12 **Q.** ARE THOSE ALL THE EMAILS YOU SENT DURING YOUR JOB SEARCH?

13 **A.** NO.

14 **Q.** OKAY. DID YOU SEND OTHER EMAILS?

15 **A.** I SENT OUT OTHER EMAILS BUT I APPLIED FOR A LOT OF OTHER
16 JOBS WITHOUT AN EMAIL. THESE ARE ONES I FOUND ON CRAIG'S
17 LIST.

18 **Q.** AND WHEN YOU SAID YOU APPLIED FOR OTHER JOBS WITHOUT AN
19 EMAIL, HOW DID YOU APPLY FOR OTHER JOBS WITHOUT EMAILS?

20 **A.** DIRECTLY ON WEBSITES. LIKE, DIRECTLY ON THE COMPANY'S
21 WEBSITE. INDEED AND MONSTER. IN PERSON.

22 **Q.** DO YOU RECALL HOW YOU APPLIED FOR THE BUDWEISER POSITION?

23 **A.** ONLINE. ON THE DIRECT WEBSITE.

24 **Q.** LET'S TAKE A LOOK AT EXHIBIT 149.

25 DO YOU KNOW WHAT THAT IS?

1 **A.** IT'S A LIST OF PLACES I HAVE APPLIED.

2 **THE COURT:** I COULDN'T HEAR YOU.

3 **MS. SMALLETS:** PLACES SHE APPLIED.

4 WE WOULD ASK TO OFFER EXHIBIT 149 INTO EVIDENCE.

5 **THE COURT:** DO YOU HAVE AN OBJECTION?

6 **MR. LAFAYETTE:** NO, YOUR HONOR.

7 **THE COURT:** ADMITTED.

8 (PLAINTIFF'S EXHIBIT 149 RECEIVED IN EVIDENCE)

9 (DISPLAYED ON SCREEN.)

10 **BY MS. SMALLETS:**

11 **Q.** OKAY. LET'S TAKE A LOOK AT EXHIBIT 152. IS THAT A W2 YOU
12 RECEIVED FROM CARQUINEZ DENTAL GROUP?

13 **A.** YES.

14 **Q.** WE WOULD MOVE EXHIBIT 152 INTO EVIDENCE?

15 **THE COURT:** ANY OBJECTION?

16 **MR. LAFAYETTE:** NO, YOUR HONOR.

17 **THE COURT:** ADMITTED.

18 (PLAINTIFF'S EXHIBIT 152 RECEIVED IN EVIDENCE)

19 **MS. SMALLETS:** WE WOULD LIKE TO OFFER 151, 153, 154,
20 155, AND 162 INTO EVIDENCE.

21 **COURT REPORTER:** REPEAT THE NUMBERS, PLEASE?

22 **MS. SMALLETS:** 151, 153, 154, 155, AND 162. AND IF I
23 CAN LAY THE FOUNDATION BUT I WAS WONDERING IF THERE WOULD BE A
24 STIPULATION?

25 **THE COURT:** WHAT ARE THEY?

1 **MS. SMALLETS:** THEY ARE 1099 OR PAY STUBS FROM THE
2 PRODUCT JOBS SHE REFERENCED.

3 **THE COURT:** ANY OBJECTION?

4 **MR. LAFAYETTE:** 152 --

5 **MS. SMALLETS:** NO. 151 --

6 **THE COURT:** 153, 154, 155, AND 162.

7 **MR. LAFAYETTE:** NO OBJECTION, YOUR HONOR.

8 **THE COURT:** THEY ARE ALL ADMITTED.

9 (PLAINTIFF'S EXHIBITS 151, 153, 154, 155, AND 162 RECEIVED
10 IN EVIDENCE)

11 **BY MS. SMALLETS:**

12 **Q.** ONCE YOU GOT THE JOB AT CARQUINEZ DENTAL GROUP, DID YOU
13 CONTINUE LOOKING FOR OTHER JOBS?

14 **A.** YES.

15 **Q.** WHAT KIND OF JOBS WERE YOU LOOKING FOR -- WERE YOU LOOKING
16 FOR?

17 **A.** EVERYTHING -- ANYTHING THAT ALLOWED TO MAKE MORE
18 ADVANCEMENTS. I WAS LOOKING FOR A LOT OF DIFFERENT JOBS.

19 **Q.** DID YOU ULTIMATELY APPLY -- DID YOU ULTIMATELY GET ANOTHER
20 JOB?

21 **A.** I TOOK A JOB AT ALASKA AIRLINES.

22 **Q.** WHEN DID YOU APPLY FOR THAT JOB?

23 **A.** I DON'T REMEMBER. A LONG TIME BEFORE I HEARD BACK FROM
24 THEM.

25 **Q.** WHEN DID YOU START THERE?

1 **A.** IN JUNE.

2 **Q.** OF?

3 **A.** OF THIS YEAR.

4 **Q.** WHAT DO YOU DO FOR THEM?

5 **A.** CUSTOMER SERVICE.

6 **Q.** AND HOW MUCH DO YOU RECALL -- DO YOU KNOW HOW MUCH YOU
7 EARN AN HOUR?

8 **A.** SO I TOOK A PAY CUT, SO I ONLY MADE 14.50 AN HOUR TO
9 START.

10 **Q.** WHY DID YOU TAKE THAT JOB EVEN THOUGH IT WAS A PAY CUT?

11 **A.** BECAUSE I WAS WORKING AT THE DENTAL OFFICE AT THE SAME PAY
12 I WAS WORKING AT THE DENTAL OFFICE LIKE TEN YEARS AGO, SO I
13 ASKED FOR A RAISE AND REALIZED THAT PROBABLY WON'T EVER MAKE
14 THAT MUCH MORE AT THE DENTAL OFFICE. I THOUGHT WITH THE
15 BIGGER COMPANY, THERE WOULD BE MORE PATHWAYS TO WORK MY WAY
16 UP. WHERE THE DENTAL OFFICE I COULDN'T GO MUCH FURTHER.

17 **Q.** HOW DO THE BENEFITS AT ALASKA COMPARE WITH THE DENTAL
18 OFFICE?

19 **A.** THEY'RE MUCH BETTER. THAT WAS ANOTHER DECIDING FACTOR.

20 **Q.** DO YOU WORK ANY OVERTIME FOR ALASKA AIRLINES?

21 **A.** NO. BUT YOU CAN WHEN YOU WANT TO, YES.

22 **Q.** HOW LONG DOES IT TAKE --

23 **A.** I DON'T AT THE MOMENT BECAUSE MY PREGNANCY, WAS KIND OF
24 HARD TO PICK UP MORE HOURS. BUT THAT'S ONE THING THAT I DID
25 LIKE ABOUT THE POSITION.

1 Q. DID YOU -- HOW LONG DOES IT TAKE YOU TO GET TO WORK EVERY
2 DAY FROM YOUR HOUSE?

3 A. LIKE TWO HOURS, HOUR AND A HALF SOMETIMES. DEPENDS ON
4 WHAT TIME I'M STARTING.

5 MS. SMALLETS: YOUR HONOR, WE WOULD LIKE TO ADMIT
6 EXHIBIT 156 AND 157, WHICH ARE ALASKA AIRLINE PAY STUBS AND
7 158A, WHICH IS AN EXCERPT FROM THE ALASKA AIRLINES BENEFITS,
8 INTO EVIDENCE. I CAN LAY A FOUNDATION OR -- OR IF THERE IS A
9 STIPULATION THAT WOULD BE OBVIOUSLY BE FASTER.

10 THE COURT: ANY OBJECTIONS?

11 MR. LAFAYETTE: NO, YOUR HONOR.

12 THE COURT: EACH OF THOSE ARE ADMITTED, 156, 157,
13 158A.

14 (PLAINTIFF'S EXHIBIT 156, 157, 158A RECEIVED IN EVIDENCE)

15 BY MS. SMALLETS:

16 Q. SO WE KNOW YOU'RE PREGNANT. ARE YOU ABOUT TO START
17 MATERNITY LEAVE SOON?

18 A. YES.

19 Q. IS YOUR PLAN TO RETURN TO WORK --

20 A. YES.

21 Q. -- ONCE YOU FINISH YOUR MATERNITY LEAVE?

22 A. YES.

23 Q. DO YOU HAVE PLANS FOR YOUR CHILDCARE?

24 A. YES.

25 Q. WHAT ARE THOSE PLANS?

1 **MR. LAFAYETTE:** RELEVANCY, YOUR HONOR.

2 **THE COURT:** IS IT RELEVANT TO DAMAGES?

3 **MS. SMALLETS:** YES.

4 **THE COURT:** HOW?

5 **MS. SMALLETS:** IF THERE'S A CONCERN THAT SHE WOULD
6 NOT RETURN TO WORK AND/OR BE ABLE TO ARRANGE CHILDCARE, WE ARE
7 TALKING ABOUT WHAT HER PLANS ARE NOW AND ALSO HOW WORK AT THE
8 REFINERY WOULD HAVE FIT INTO THOSE PLANS.

9 **THE COURT:** ALL RIGHT. I'LL GIVE YOU A LITTLE BIT OF
10 LATITUDE. GO AHEAD. OVERRULED.

11 **THE WITNESS:** MY PLAN IS TO GO BACK TO WORK AS SOON
12 AS I CAN AND, DURING THAT TIME WHEN I'M AT WORK, EITHER MY
13 HUSBAND OR MY MOTHER CAN HELP WITH THE BABY.

14 **BY MS. SMALLETS:**

15 **Q.** AND IF YOU HAD STILL BEEN WORKING FOR THE REFINERY, WOULD
16 YOU HAVE GONE BACK TO WORK AFTER HAVING A BABY?

17 **A.** I THINK SO, YES.

18 **Q.** AND WHAT WOULD -- HOW WOULD THAT HAVE AFFECTED YOUR
19 CHILDCARE ARRANGEMENTS?

20 **A.** I DON'T KNOW THAT IT WOULD. I DON'T KNOW.

21 **Q.** WOULD WORKING SHIFT WORK AT THE REFINERY HAVE ANY IMPACT
22 ON YOUR ABILITY TO ARRANGE FOR CHILDCARE?

23 **A.** WELL -- WELL, WE HAVE SEVEN DAYS OFF. WE WORK -- WE HAVE
24 A LOT MORE TIME OFF IN A ROW BUT WE WORK 12 HOURS. I DON'T
25 KNOW. I DIDN'T THINK ABOUT IT BECAUSE I'M NOT THERE ANYMORE.

1 I GUESS IT WOULD HAVE BEEN EASIER WHEN I WORKED NIGHTS. YEAH,
2 I DON'T KNOW. I HAVEN'T THOUGHT ABOUT IT. SORRY.

3 Q. IT'S OKAY.

4 ALL RIGHT. LET'S TALK ABOUT HOW THIS HAS -- THIS HAS
5 IMPACTED YOU EMOTIONALLY. CAN YOU TELL US HOW WHAT HAPPENED
6 TO YOU AT SHELL MADE YOU FEEL?

7 A. I PRETTY MUCH -- YOU KNOW, I JUST FELT REALLY DEFEATED. I
8 FELT EMBARRASSED THAT I NO LONGER WORKED THERE. I WAS ANGRY.

9 Q. HAS IT IMPACTED YOU PHYSICALLY?

10 A. YEAH. FOR A LONG TIME I WAS PRETTY DEPRESSED ABOUT IT.
11 GET A LOT OF ANXIETY, TRYING TO FIGURE OUT WHAT HAPPENED OR
12 THINGS LIKE THAT.

13 Q. DID YOU HAVE ANY PHYSICAL SYMPTOMS?

14 MR. LAFAYETTE: OBJECTION, LEADING.

15 THE COURT: OVERRULED.

16 THE WITNESS: LIKE STOMACHACHES AND, LIKE, I WOULD
17 JUST WAKE UP AND MY HANDS WERE HURT. I WOULD NOTICE I WAS
18 CLENCHING MY HANDS AT NIGHT.

19 BY MS. SMALLETS:

20 Q. ANYTHING ELSE?

21 A. NO.

22 Q. DID IT AFFECT ANY OF YOUR DAILY ACTIVITIES?

23 A. YEAH, IT DID.

24 Q. HOW SO?

25 A. THEY JUST -- FOR A WHILE, NOT ANYMORE. BUT FOR A WHILE

1 THEY JUST WEREN'T AS ENJOYABLE, AND I DIDN'T REALLY WANT TO
2 SEE ANYONE BECAUSE I DIDN'T WANT THEM TO ASK HOW WORK WAS. SO
3 I KIND OF, LIKE, AVOIDED SOCIAL THINGS FOR A WHILE. I DIDN'T
4 WANT TO TELL PEOPLE I DIDN'T WORK THERE ANYMORE.

5 **Q.** ANY OTHER -- HOW DID THIS MAKE YOU FEEL ABOUT YOUR CAREER?

6 **A.** I FELT LIKE -- I FELT LIKE I WORKED HARD FOR IT, THAT
7 CAREER AND ALSO I FELT I GOT REALLY LUCKY BECAUSE A LOT OF
8 PEOPLE APPLY FOR THAT JOB. SO I FEEL LIKE ONCE IN A LIFETIME
9 OPPORTUNITY FOR ME WAS TAKEN AWAY.

10 **Q.** DID YOU HAVE ANY WORRIES ABOUT THE FUTURE?

11 **A.** YEAH. I JUST THOUGHT WITHOUT A COLLEGE DEGREE, THAT --
12 THAT THAT JOB WOULD HAVE ALLOWED FOR A DIFFERENT LIKE LIFE.
13 AND I -- THEN I WAS JUST AFRAID THAT MAYBE I WAS GOING TO HAVE
14 A HARD TIME CAN FINDING ANOTHER JOB LIKE THAT.

15 **Q.** IS THERE ANY SPECIFIC WAYS IN WHICH THAT LOSS OF INCOME
16 AFFECTED YOU FINANCIALLY?

17 **A.** NO, NOT SPECIFIC.

18 **Q.** IS THERE ANYTHING THAT YOU LOST THE ABILITY TO DO
19 FINANCIALLY?

20 **MR. LAFAYETTE:** OBJECTION, LEADING AND CUMULATIVE.

21 **THE COURT:** SUSTAINED.

22 **BY MS. SMALLETS:**

23 **Q.** WERE YOU PROVIDING FINANCIAL SUPPORT TO ANYONE PRIOR TO
24 YOUR TERMINATION?

25 **A.** I WAS HELPING MY FAMILY AND HELPING MY MOM.

1 Q. WERE YOU ABLE TO KEEP DOING THAT?

2 A. NO.

3 Q. AND DID YOU -- HAD YOU ARRANGED TO PURCHASE A HOME PRIOR
4 TO YOUR TERMINATION?

5 A. WE WERE -- WE PREQUALIFIED. WE WERE GOING TO BUY MY DAD'S
6 HOUSE.

7 Q. AND WHEN WERE YOU GOING TO BUY THAT HOUSE?

8 A. WELL, WE WERE JUST IN THE PROCESS. SO THERE'S LIKE -- WE
9 WERE PRE-APPROVED AND NOW WE WERE WAITING, AND IT WAS AROUND
10 THE SAME TIME -- IN THAT TIME FRAME BEFORE ANYTHING COULD MOVE
11 FORWARD, I LOST THE JOB AT SHELL.

12 Q. WERE YOU ABLE TO BUY THAT HOUSE?

13 A. NO.

14 MS. SMALLETS: NOTHING FURTHER.

15 THE COURT: CROSS.

16 MR. LAFAYETTE: YES, YOUR HONOR.

17 CROSS-EXAMINATION

18 BY MR. LAFAYETTE:

19 Q. GOOD MORNING, MA'AM.

20 A. GOOD MORNING.

21 Q. SO AT THE REFINERY WHEN YOU STARTED THERE, YOU INITIALLY
22 STARTED WITH AN APPROXIMATELY ALMOST TWO-MONTH COURSE WITH ALL
23 22 OF YOUR PROBATIONARY COWORKERS?

24 A. YES.

25 Q. AND THEN AFTER THAT YOU TRANSITIONED INTO OPCEN?

1 **A.** CORRECT.

2 **Q.** AND FOR APPROXIMATELY THE FIRST APPROXIMATE TWO MONTHS YOU
3 WERE IN OPCEN, YOU WERE IN A TRAINING COURSE?

4 **A.** CORRECT.

5 **Q.** AND SOMETIME AROUND MAY 9, YOU TRANSITIONED FROM THERE TO
6 GOING ON SHIFT. WOULD THAT BE RIGHT?

7 **A.** I THINK MAY 9 WE TRANSFERRED TO OUR PARALLEL TRAINING,
8 WHICH WAS IN THE UNIT WITH CHRIS SALAS.

9 **Q.** ONCE THEN YOU COMPLETED THE PARALLEL TRAINING, YOU WERE
10 ASSIGNED TO A SHIFT?

11 **A.** YES.

12 **Q.** AND YOU WERE ASSIGNED INITIALLY WITH YOUR SHIFT TEAM LEAD,
13 THAT IS CAMERON CURRAN?

14 **A.** YES.

15 **Q.** YOU WERE WITH CAMERON CURRAN UNTIL APPROXIMATELY AUGUST 1,
16 2016?

17 **A.** YES.

18 **Q.** AND THEN FROM THAT POINT ON, YOUR SHIFT TEAM LEAD WAS
19 MR. METCALF?

20 **A.** YES.

21 **Q.** OKAY. THERE WAS A MOMENT -- SO IN THE CLASS THAT YOU HAD
22 WITH MR. -- IN THE TWO-MONTH PERIOD, MARCH, APRIL, WHILE YOU
23 WERE IN THE CLASS, WAS THAT A CLASS THAT YOUR TRAINER WAS
24 MR. FISCHER?

25 **A.** YES.

1 Q. AND WHEN YOU WERE IN THAT CLASS, WAS IT JUST YOU AND
2 MR. JOSE --

3 A. NAVARRO.

4 Q. NAVARRO? ERIC -- NO. YOU TELL ME WHO WAS IN YOUR CLASS.

5 A. JOSE NAVARRO, ODEMENA EKELEMU AND PATRICK NEUMAN.

6 Q. AND WHEN YOU WERE IN THAT CLASS, WAS THERE A CLASSROOM?

7 A. YEAH, IT WAS A SMALL ROOM THAT WE SAT AROUND A TABLE.

8 Q. SO IT WAS A SMALL CONFERENCE ROOM?

9 A. YEAH.

10 Q. DID IT HAVE A WHITE BOARD?

11 A. YES.

12 Q. OKAY.

13 AND SO WAS THIS ROOM CLOSED OFF TO EVERYBODY ELSE OR WAS
14 IT OPEN TO ANYBODY WHO WANTED TO COME IN THERE?

15 A. IT WAS OPENED TO ANYONE WHO WANTED TO COME IN.

16 Q. OKAY.

17 A. I MEAN, IF SOMEBODY WANTED TO COME IN, THEY COULD OPEN THE
18 DOOR AND COME IN.

19 Q. WHEN YOU GUYS WERE ARE NOT -- NOT THERE, WAS IT USED BY
20 OTHER PEOPLE?

21 A. I DON'T KNOW. POSSIBLY.

22 Q. OKAY. AND SO IS IT IN OPCEN ITSELF, THIS ROOM?

23 A. YES.

24 Q. SO WHEN YOU WENT ON SHIFT, YOU WERE STILL IN THE SAME
25 BUILDING?

1 **A.** YES.

2 **Q.** OKAY. AND THAT BUILDING, IS MR. ERIC PEREZ' OFFICE IN
3 THAT BUILDING?

4 **A.** NO.

5 **Q.** HOW FAR AWAY IS MR. ERIC PEREZ?

6 **A.** I NEVER WENT TO HIS OFFICE. I NEVER REALLY KNEW WHERE HIS
7 OFFICE WAS.

8 **Q.** WAS MR. BECK IN THAT BUILDING?

9 **A.** NO. THEY COME TO THE BUILDING BUT THEIR OFFICE IS NOT IN
10 THE BUILDING.

11 **Q.** ALL RIGHT. AND SO WHEN YOU WENT ON SHIFT, YOU WERE ON
12 OPCEN NORTH, RIGHT?

13 **A.** YES.

14 **Q.** WERE ANY OF YOUR -- THE THREE OTHER PEOPLE WHO WERE IN THE
15 TRAINING COURSE ON OPCEN NORTH AT THE SAME SHIFT THAT YOU HAD?

16 **A.** NOT TYPICALLY, NO.

17 **Q.** ALL RIGHT. SO THEY WERE NOT ASSIGNED TO YOUR TEAM FOUR
18 OPCEN NORTH, RIGHT?

19 **A.** NO.

20 **Q.** OKAY. WAS THERE SOMEBODY IN YOUR CLASS ON TEAM FOUR OPCEN
21 SOUTH?

22 **A.** YES.

23 **Q.** WHO WAS IN YOUR CLASS OPCEN SOUTH TEAM FOUR?

24 **A.** I THINK THEY GOT THEIR SHIFT LATER. SO FOR A WHILE IT WAS
25 JOSH AND BILL, AND THEN BILL.

1 Q. THEY WERE ON OPCEN SOUTH?

2 A. YES.

3 Q. SAME TEAM AS YOU?

4 A. YES.

5 Q. SO THERE IS A MOMENT WHEN YOU START TALKING ABOUT THE ACID
6 INCIDENT, RIGHT?

7 A. RIGHT.

8 Q. NOW, YOU WERE NOT PRESENT WHEN WHATEVER HAPPENED HAPPENED,
9 WERE YOU?

10 A. NO.

11 Q. IT HAPPENED BEFORE YOUR SHIFT, DIDN'T IT?

12 A. I BELIEVE IT HAPPENED THE DAY BEFORE MY SHIFT.

13 Q. NOW, YOU SAID AT SOME POINT, YOU CAME OUT AFTER YOU HAD
14 HEARD A PHONE CALL, RIGHT?

15 A. I HAD NEVER HEARD THE PHONE CALL. IT WAS SOMEONE IN
16 PERSON.

17 Q. YOU OVERHEARD A CONVERSATION THAT MR. CAMERON CURRAN WAS
18 HAVING WITH SOMEONE ELSE.

19 A. YES. IN PERSON.

20 Q. DID YOU DO ANYTHING TO MAKE SURE THAT WHATEVER YOU SAW
21 WHEN YOU WENT OUTSIDE WAS ACTUALLY SULFURIC ACID AND NOT
22 WATER?

23 A. WELL, I MADE THE OBSERVATION THAT IT WAS DRIPPING FROM THE
24 SIGHT GLASS. I DIDN'T SEE ANYWHERE THAT WATER COULD COME
25 FROM. THEN I RETURNED TO THE OFFICE AND ASKED CAMERON.

1 **MR. LAFAYETTE:** I WOULD LIKE TO READ FROM THE
2 WITNESS'S DEPOSITION TRANSCRIPT, YOUR HONOR, PAGE 288, LINES
3 12 THROUGH 14.

4 **THE COURT:** GO AHEAD.

5 **MR. LAFAYETTE:** (READING)

6 QUESTION: DID YOU DO ANYTHING TO MAKE SURE THAT WHAT
7 YOU SAW --

8 **THE COURT:** THAT'S NOT WHAT IT SAYS. TRY AGAIN.

9 **MR. LAFAYETTE:** 288, 12 THROUGH 14?

10 **THE COURT:** RIGHT. YOU USED THE WRONG WORD. READ
11 CAREFULLY.

12 **MR. LAFAYETTE:** (READING)

13 "QUESTION: DID YOU DO ANYTHING TO MAKE CERTAIN THAT
14 WHAT YOU SAW WAS SULFURIC ACID AND NOT WATER?

15 "ANSWER: NO, JUST VISUALLY LOOKED WITH MY EYES."

16 **THE WITNESS:** THAT IS WHAT I OBSERVED.

17 **BY MR. LAFAYETTE:**

18 **Q.** IT IS ALSO ACCURATE WHAT YOU SAW OUT THERE WAS JUST A
19 FEW -- A LITTLE FEW DROPS, CORRECT?

20 **A.** ARE YOU READING OR ASKING ME?

21 **Q.** ASKING YOU.

22 **A.** YOU'RE ASKING ME IS IT CORRECT THAT WHAT I SAW WAS JUST A
23 LITTLE FEW DROPS?

24 **Q.** YES.

25 **A.** NO.

1 **MR. LAFAYETTE:** I WOULD LIKE TO READ FROM THE
2 DEPOSITION TRANSCRIPT, PAGE 290, AT LINE, FOUR THROUGH SEVEN.

3 **MS. SMALLETS:** YOUR HONOR, TO BE COMPLETE, I THINK WE
4 NEED TO START WITH PAGE 289 --

5 **COURT REPORTER:** I'M SORRY, COUNSEL. CAN YOU SPEAK
6 UP?

7 **MS. SMALLETS:** YOU KNOW WHAT? NEVERMIND.

8 **COURT REPORTER:** I CAN'T HEAR YOU.

9 **THE COURT:** ALL RIGHT. I'M READING.

10 **THE CLERK:** YOU CAN JUST BEND IT OVER, BEND IT DOWN.

11 **THE COURT:** YOU CAN DO IT ON REDIRECT.

12 GO AHEAD.

13 **MR. LAFAYETTE:** (READING)

14 "HOW THICK -- HOW THICK WAS THE STANDING LIQUID?

15 "ANSWER: JUST A LITTLE. FEW DROPS THAT I COULD SEE
16 WHERE IT WAS COMING FROM."

17 **BY MR. LAFAYETTE:**

18 **Q.** NOW, AT THE TIME YOU WENT OUT THERE TO LOOK AT THIS, WOULD
19 BE ACCURATE CAMERON CURRAN WAS ALREADY AWARE OF THE LEAK?

20 **A.** IT WOULD BE ACCURATE FROM WHAT I HEARD THAT I ASSUMED HE
21 WAS AWARE.

22 **Q.** AND WOULD IT BE ACCURATE THAT THE TRUCK DRIVER WAS ALREADY
23 AWARE OF THIS INCIDENT?

24 **A.** YES.

25 **Q.** WAS IT ALSO YOUR UNDERSTANDING THAT THE SHIFT THAT HAD

1 WORKED THERE BEFORE YOUR SHIFT, THAT THEY WERE AWARE OF THIS
2 INCIDENT?

3 **A.** AT THAT TIME I WASN'T SURE IF THEY WERE AWARE.

4 **MR. LAFAYETTE:** YOUR HONOR, I WOULD LIKE TO READ FROM
5 THE WITNESS'S DEPOSITION TRANSCRIPT PAGE 291, LINE 2 THROUGH
6 6.

7 **THE COURT:** GO HEED.

8 **MR. LAFAYETTE:** (READING)

9 "QUESTION: OKAY. AND DO YOU KNOW IF THE TEAM THAT
10 HAD THE SHIFT BEFORE YOU WAS AWARE OF IT?

11 "ANSWER: I BELIEVE THEY WERE.

12 "QUESTION: OKAY. YOU BELIEVE THEY WERE AWARE OF IT?

13 "ANSWER: YES."

14 **BY MR. LAFAYETTE:**

15 **Q.** NOW, YOUR DEPOSITION WAS TAKEN IN THIS CASE, RIGHT?

16 **A.** RIGHT.

17 **Q.** AND WHEN YOUR DEPOSITION WAS TAKEN, YOU WERE TOLD THAT THE
18 TESTIMONY THAT YOU GIVE IN THE DEPOSITION WOULD BEAR THE SAME
19 TRUTH AND VERACITY AS IF YOU ACTUALLY TESTIFIED IN A COURT OF
20 LAW, RIGHT?

21 **A.** CORRECT.

22 **Q.** YOU WERE TOLD THAT YOU WOULD GET AN OPPORTUNITY TO REVIEW
23 THE TRANSCRIPT, WEREN'T YOU?

24 **A.** YES.

25 **Q.** YOU WERE TOLD THAT IF YOU HAD CHANGES AND CORRECTIONS, YOU

1 SHOULD LET SOMEONE KNOW, RIGHT?

2 **A.** CORRECT.

3 **Q.** AND YOU DIDN'T, RIGHT? ON THESE SUBJECTS I'M TALKING
4 ABOUT.

5 **A.** NO.

6 **THE COURT:** ALL RIGHT. LET'S GO AHEAD AND TAKE OUR
7 SECOND BREAK. LADIES AND GENTLEMEN, WE'LL STAND IN RECESS FOR
8 15 MINUTES.

9 (PROCEEDINGS HELD OUTSIDE THE PRESENCE OF THE JURY.)

10 **THE COURT:** ALL RIGHT. THE RECORD WILL REFLECT THAT
11 THE JURY IS GONE. YOU MAY STEP DOWN, MS. NEWTON.

12 OKAY. YOU WILL BE RECEIVING AN EMAIL WITH THE DRAFT OF
13 THE JURY INSTRUCTIONS. WE ARE STRUGGLING WITH HOW TO DEAL
14 WITH CACI 2512, WHICH IS NOT THE MOST WELL-WORDED INSTRUCTION
15 I'VE SEEN. AND THERE IS ANOTHER INSTRUCTION, BAJI 12.26 THAT
16 I'VE LOOKED AT IN TERMS OF TRYING TO FIGURE OUT HOW TO
17 INSTRUCT THE JURY. AND ALSO YOU SHOULD LOOK AT *HARRIS VERSUS*
18 *CITY OF SANTA MONICA*, CALIFORNIA SUPREME COURT CASE, 56 CAL
19 FOURTH 203. IT IS 2013 CASE.

20 **MS. SMALLETS:** YOUR HONOR, CAN YOU TELL ME THE BAJI
21 NUMBER AGAIN? I'M SORRY.

22 **THE COURT:** BAJI 12.26.

23 SO I HAVE INCLUDED THAT AT THE END. I THINK IT'S PROBABLY
24 MOST APPROPRIATELY DONE IN DAMAGES BUT I HAVEN'T FIGURED IT
25 OUT YET.

1 THAT SAID, I WANT TO GIVE IT TO YOU WITH ENOUGH TIME FOR
2 YOU TO TAKE A LOOK AT IT. YOU WILL SEE IN THERE -- YOU WILL
3 GET TWO SETS. ONE IS WHAT I CALL STANDARD INSTRUCTIONS AND I
4 HAVE MY SET AND I KEEP NOT WANTING TO ALWAYS REVISE THEM.

5 SO YOU'LL HAVE A DOCUMENT THAT ARE THE STANDARD
6 INSTRUCTIONS AND THEN YOU WILL HAVE A SEPARATE DOCUMENT
7 SUBSTANTIVE THAT GO AT THE END OF THE STANDARD OR IN BETWEEN
8 BECAUSE THE STANDARD HAVE BEGINNING AND END.

9 YOU WILL SEE A STOP. I'M STILL TRYING TO DECIDE WHETHER
10 IT MAKES SENSE GIVEN THE BURDEN SHIFTING THAT HAPPENS WITH THE
11 DEFENDANT, WHETHER OR NOT I'M GOING TO SEGREGATE THINGS AGAIN
12 TO MAKE IT EASIER FOR THE JURY WITH BURDEN SHIFTING,
13 ESPECIALLY WITH THE ONE I JUST MENTIONED.

14 ANYWAY, WE HAVE A LOT TO TALK ABOUT. I JUST WANT TO LET
15 YOU KNOW THAT THESE ARE STILL A WORK IN PROGRESS AS FAR AS I'M
16 CONCERNED, BUT I NEED TO GET THEM TO YOU SO WE CAN HAVE A
17 DISCUSSION PLAN ON IT TOMORROW AFTERNOON.

18 **MR. LAFAYETTE:** THANK YOU, YOUR HONOR.

19 **THE COURT:** ALL RIGHT. 15 MINUTES.

20 (RECESS TAKEN AT 11:50 A.M.; RESUMED AT 12:03 P.M.)

21 **THE CLERK:** REMAIN SEATED. COURT IS IN SESSION.
22 COME TO ORDER.

23 **THE COURT:** ALL RIGHT. LET'S CALL THE JURY IN.

24 **MS. NUGENT:** JUST ONE HOUSEKEEPING ISSUE. WE HAVE
25 AGREED THAT BRIANNA NEWTON WILL BE CALLED IN AT 1:00 O'CLOCK

1 AND WE WILL TAKE HER OUT OF ORDER, IF MR. LAFAYETTE IS STILL
2 GOING WITH MS. CIARA NEWTON.

3 **MR. LAFAYETTE:** I'M FINE WITH THAT, YOUR HONOR.
4 SHE'S OUT THERE. AND RATHER THAN HAVE HER COME BACK AGAIN, IF
5 WE FINISH WITH HER, WE WILL START BACK UP WITH THE PLAINTIFF.

6 **THE COURT:** ALL RIGHT. THANK YOU. LET'S CALL THEM
7 IN.

8 (PROCEEDINGS HELD IN THE PRESENCE OF THE JURY.)

9 **THE COURT:** OKAY. WE'RE BACK ON THE RECORD. THE
10 RECORD WILL REFLECT THE JURY IS BACK.

11 MR. LAFAYETTE, YOU MAY PROCEED.

12 **MR. LAFAYETTE:** THANK YOU, YOUR HONOR.

13 **BY MR. LAFAYETTE:**

14 **Q.** SO YOU ALSO SPOKE ABOUT THE SIGHT GLASS ON THE ACID TANK,
15 RIGHT?

16 **A.** RIGHT.

17 **Q.** THAT SIGHT GLASS ON THE ACID TANK IS ONE OF TWO DIFFERENT
18 MECHANISMS THAT CAN DETERMINE THE VOLUME OF FLUID INSIDE THE
19 TANK, RIGHT?

20 **A.** RIGHT.

21 **Q.** THE OTHER ONE IS A GAUGE, RIGHT?

22 **A.** RIGHT.

23 **Q.** WHERE IS THE GAUGE?

24 **A.** THE GAUGE IS BELOW THE TANK.

25 **Q.** WHAT DO YOU MEAN "BELOW THE TANK"?

1 **A.** IT'S NOT ACTUALLY ON THE TANK. IT'S RIGHT IN FRONT OF IT.
2 BELOW IT.

3 **Q.** AND IN FRONT OF THE TANK, THERE'S ALSO A SHOWER, RIGHT?

4 **A.** NO, NOT RIGHT IN FRONT OF IT. THERE SHOULD BE A SHOWER
5 SOMEWHERE NEARBY.

6 **Q.** THERE'S A SHOWER RIGHT THERE AT THE TANK, ISN'T THERE?

7 **A.** NOT THAT I REMEMBER. THERE SHOULD BE ONE SHOWER CLOSE BY.

8 **Q.** WE WILL COME BACK TO IT.

9 SO NOW, WITH REGARD TO THAT SIGHT GLASS, YOU UNDERSTAND
10 YOU WERE NOT THE ONLY ONE TO REPORT THAT THE SIGHT GLASS MIGHT
11 NOT BE WORKING PROPERLY, RIGHT?

12 **A.** RIGHT.

13 **Q.** SO WHEN YOU DO COME IN AND YOU SEE EVIDENCE OF SOMETHING,
14 DO YOU KNOW WHEN IT WAS THAT CAMERON CURRAN FIRST BECAME AWARE
15 THAT THERE HAD BEEN AN OVERFILL?

16 **A.** I DON'T KNOW FOR SURE WHEN HE FIRST BECAME AWARE.

17 **Q.** OKAY. YOU ONLY KNOW ABOUT WHAT YOU OVERHEARD WHEN THIS
18 DRIVER CAME IN, RIGHT?

19 **A.** RIGHT.

20 **Q.** AND YOU DON'T KNOW IF THAT'S THE DAY HE FOUND OUT OR IF HE
21 HAD FOUND OUT AT SOME OTHER TIME, CORRECT?

22 **A.** CORRECT.

23 **Q.** OKAY.

24 AND WHEN YOU LOOK AT THE AREA WHERE THIS OVERFILL MAY HAVE
25 OCCURRED, DID YOU SEE A BARK-LIKE SUBSTANCE ALL AROUND?

1 **A.** YEAH.

2 **Q.** DID YOU ACTUALLY COME TO UNDERSTAND WHAT THAT SUBSTANCE
3 WAS?

4 **A.** IT WAS OYSTER SHELLS.

5 **Q.** OYSTER SHELLS.

6 DID YOU COME TO UNDERSTAND WHAT IT IS THAT OYSTER SHELL IS
7 USED FOR WITH RESPECT TO SULFURIC ACID?

8 **A.** THEY HELP NEUTRALIZE IT.

9 **Q.** NEUTRALIZE IT MEANS WHAT?

10 **A.** MAKE IT LESS ACIDIC.

11 **Q.** MAKE IT NONHARMFUL.

12 **A.** UH-HUH.

13 **Q.** RIGHT?

14 **A.** LESS -- YEAH. IT IS PART OF NEUTRALIZING IT.

15 **Q.** SO WHEN YOU GOT THERE AND WHEN YOU LOOKED AT THE AREA
16 WHERE THE TANK WAS, THERE WAS OYSTER SHELL ALL AROUND, RIGHT?

17 **A.** I THINK THAT THERE WAS.

18 **Q.** OKAY.

19 **A.** THERE'S --

20 **Q.** SO NOW, DID YOU KNOW HOW LONG THE OYSTER SHELL HAD BEEN
21 DOWN THERE?

22 **A.** NO, I DID NOT.

23 **Q.** AND IN SUM, DID YOU DO ANYTHING TO DETERMINE WHETHER OR
24 NOT THE OYSTER SHELL HAD BEEN THERE LONG ENOUGH FOR IT TO HAVE
25 NEUTRALIZED ANY THREAT THAT COULD HAVE BEEN POSED BY THE ACID?

1 **A.** YES.

2 **Q.** BUT YOU DIDN'T KNOW HOW LONG IT HAD BEEN THERE, HAD YOU?
3 HOW LONG THE SPILL HAD BEEN THERE, RIGHT?

4 **A.** AT WHICH POINT IN TIME? WHEN I FIRST WENT OUT OR WHEN I
5 WAS WITH CAMERON?

6 WHEN I FIRST WENT OUT, I DIDN'T KNOW HOW LONG IT HAD BEEN
7 THERE.

8 **Q.** YOU DIDN'T KNOW HOW LONG IT HAD BEEN THERE, HAD YOU?

9 **A.** WHEN I FIRST WENT OUT, NO.

10 **Q.** NOW WHEN YOU FIRST BROUGHT THIS UP TO MR. CAMERON CURRAN,
11 THE FIRST THING HE SAID IS, NOTHING NEEDS TO BE DONE, RIGHT?

12 **A.** NO, NOT NECESSARILY.

13 **Q.** DIDN'T HE SAY THAT YOU DON'T NEED TO PUT THE TAPE OUT?

14 **A.** HE DID SAY THAT AT SOME POINT IN TIME. HE DID NOT WANT ME
15 TO ROPE IT OFF WITH CAUTION TAPE.

16 **Q.** WASN'T THE FIRST THING HE SAID, YOU DON'T NEED TO TAPE IT
17 OFF?

18 **A.** FIRST THING HE SAID AS TO WHAT, OUR CONVERSATION REGARDING
19 IT?

20 **MR. LAFAYETTE:** I WOULD LIKE TO READ FROM THE
21 WITNESS'S DEPOSITION TESTIMONY PAGE 301, LINE 5 THROUGH 8 --
22 LINES -- ACTUALLY, PAGE 300 STARTING AT LINE 24?

23 **THE COURT:** HOLD ON.

24 **MR. LAFAYETTE:** 300 --

25 **THE COURT:** CALM DOWN. I HAVEN'T SAID ANYTHING YET.

1 **MR. LAFAYETTE:** STARTING AT PAGE --

2 **THE COURT:** 300.

3 **MR. LAFAYETTE:** 300, LINE 24 THROUGH 301, 8. AND I'M
4 REMOVING THE COLLOQUY.

5 **THE COURT:** SO I CAN'T LET YOU DO THAT YET BECAUSE
6 SHE DIDN'T ANSWER YOUR QUESTION. SHE WAS ASKING FOR
7 CLARIFICATION.

8 ASK A QUESTION AGAIN AND SEE WHAT ANSWER YOU HAVE.

9 **MR. LAFAYETTE:** OKAY.

10 **BY MR. LAFAYETTE:**

11 **Q.** SO WHEN YOU GO OUT THERE WITH CAMERON CURRAN, HE SAYS TO
12 YOU, YOU DON'T NEED TO TAPE IT OFF. ISN'T THAT -- THAT'S THE
13 FIRST THING HE SAYS, RIGHT?

14 **A.** I DON'T KNOW IF IT'S THE FIRST THING HE SAYS TO ME
15 REGARDING THE SULFURIC ACID. IT'S THE FIRST THING HE SAYS
16 WHEN WE FIRST GO OUT THERE AND I TELL HIM THAT I WOULD LIKE TO
17 ROPE OFF THE AREA.

18 IT COULD BE THE FIRST THING.

19 **Q.** SO AT SOME POINT IN TIME YOU GET IN THE TRUCK, RIGHT, OR
20 CAR?

21 **A.** A TRUCK.

22 **Q.** AND YOU GO IN AND YOU GET SOME MORE OYSTER SHELLS, RIGHT?

23 **A.** YES.

24 **Q.** AND THERE HAVE ALREADY BEEN OYSTER SHELLS THERE, RIGHT?

25 **A.** CORRECT.

1 Q. AT THE POINT IN TIME YOU GO TO GET THE OYSTER SHELLS, HAD
2 YOU SPOKEN TO ANYONE ABOUT THIS INCIDENT OTHER THAN CAMERON
3 CURRAN?

4 A. NO.

5 Q. HAD YOU -- SO THAT MEANS THAT YOU HAD NOT CALLED UP THE
6 OPERATOR WHO WAS ON SHIFT BEFORE YOU, RIGHT?

7 A. NO.

8 Q. YOU HAD NOT CALLED UP THE SHIFT TEAM LEADER WHO WAS
9 RESPONSIBLE FOR THE CREW BEFORE YOU, RIGHT?

10 A. NO.

11 Q. YOU HADN'T CALLED ANY OF THEM UP TO FIND OUT WHAT THEY HAD
12 DONE, RIGHT?

13 A. NO.

14 Q. YOU HADN'T CALLED ANY OF THEM UP TO FIND OUT IF WHAT THEY
15 HAD DONE HAD EFFECTIVELY NEUTRALIZED WHATEVER HAD HAPPENED THE
16 NIGHT BEFORE, RIGHT?

17 A. I DID.

18 Q. PRIOR TO GOING TO MR. CAMERON CURRAN, HAD YOU SPOKE TO
19 THEM?

20 A. NO.

21 Q. WHEN WAS IT THAT YOU SPOKE TO SOMEONE OTHER THAN CAMERON
22 CURRAN ABOUT THE INCIDENT?

23 A. IT WOULD BE THAT NIGHT IN OUR SHIFT EXCHANGE.

24 Q. OKAY. AT YOUR SHIFT EXCHANGE.

25 AND SO PRIOR TO THAT SHIFT EXCHANGE, YOU HADN'T TOLD

1 ANYBODY ELSE ANYTHING ELSE ABOUT IT, CORRECT?

2 A. JUST MY SUPERVISOR.

3 Q. OTHER THAN CAMERON CURRAN?

4 A. NO, I DON'T THINK THAT I DID. I MIGHT HAVE MENTIONED IT
5 TO THE CONTRACTORS IN THE AREA.

6 Q. BUT YOU ARE NOT SURE OF THAT EITHER, ARE YOU?

7 A. NOT POSITIVE.

8 Q. LET'S STICK WITH CAMERON CURRAN FOR A SECOND.

9 A. OKAY.

10 Q. SO WE KNOW YOU TOLD CAMERON CURRAN, AND THEN YOU SAY AT
11 THE END OF YOUR SHIFT YOU SPEAK TO SOMEONE ELSE, RIGHT?

12 A. YES.

13 Q. OKAY. AND WHO DID YOU SPEAK WITH?

14 A. I BELIEVE IT WAS PATRICK.

15 Q. YOU SPOKE WITH PATRICK.

16 A. HE WAS THE OPERATOR COMING ON.

17 Q. PATRICK WAS -- DID YOU SPEAK TO ANYONE ELSE AT THE CLOSE
18 OF YOUR SHIFT ABOUT IT?

19 A. NO.

20 Q. OKAY.

21 NOW, PATRICK WASN'T THE PERSON WHO HAD BEEN ON SHIFT
22 BEFORE YOU, WAS HE?

23 A. CORRECT.

24 Q. OKAY. SO YOU DID NOTHING THEN PRIOR TO THE END OF YOUR
25 SHIFT TO FIND OUT WHAT WAS DONE WHEN THE LEAK -- WHEN THE

1 OVERSPILL TOOK PLACE PRIOR TO THE END OF YOUR SHIFT --

2 **A.** I DIDN'T HAVE TO. CAMERON ALREADY TOLD ME WHAT HAD BEEN
3 DONE. HE TOLD ME HE TALKED TO DONNIE GOFF AND THAT HIM AND
4 JOSE WERE ON SHIFT WHEN IT OVERFILLED.

5 **Q.** AND DID HE TELL YOU WHAT THEY HAD DONE?

6 **A.** HE TOLD ME THAT THEY HAD PUT OYSTER SHELLS, BUT THAT THE
7 REASON THERE'S STILL A PUDDLE IS BECAUSE IT HASN'T NEUTRALIZED
8 YET. SO IT ABSORBS THROUGH.

9 **Q.** SO HE TOLD YOU -- HE TOLD YOU CLEARLY IT HAD NOT
10 NEUTRALIZED YET, RIGHT?

11 **A.** HE EXPLAINED TO ME HOW OYSTER SHELLS WORK.

12 **Q.** DID HE TELL YOU POINT BLANK IT HAD NOT NEUTRALIZED YET?

13 **A.** NO, NOT IN THOSE WORDS.

14 **Q.** THANK YOU.

15 HE TOLD YOU ABOUT THE PROCESS OF OYSTER SHELLS AND
16 NEUTRALIZATION, DIDN'T HE?

17 **A.** A LITTLE BIT, YES.

18 **Q.** NOW, IT IS ABSOLUTELY TRUE THAT AT THE TIME THIS HAPPENED
19 YOU DIDN'T KNOW IF YOU WERE REQUIRED TO REPORT THIS INCIDENT
20 TO ANYBODY OTHER THAN SHELL, CORRECT?

21 **A.** I WAS NOT SURE SO I TRIED TO LOOK IT UP ON THE COMPUTER.

22 **MR. LAFAYETTE:** I WOULD LIKE TO READ FROM THE
23 WITNESS'S DEPOSITION TESTIMONY.

24 I THINK THAT'S LINE -- PAGE 336, LINE 24 THROUGH 337,
25 LINE 15.

1 **MS. SMALLETS:** OBJECTION, YOUR HONOR, IT'S NOT
2 IMPEACHING.

3 **THE COURT:** SUSTAINED. YOU NEED TO SET MORE
4 FOUNDATION. YOU'VE ONLY TALKED ABOUT A PIECE OF THAT.

5 **MR. LAFAYETTE:** OKAY.

6 **BY MR. LAFAYETTE:**

7 **Q.** YOU DIDN'T KNOW... YOU DIDN'T KNOW THAT HAD TO BE REPORTED
8 UNDER ANY FEDERAL LAWS, DID YOU?

9 **A.** I DIDN'T KNOW FOR CERTAIN.

10 **Q.** AND YOU DIDN'T KNOW THAT IT HAD TO BE REPORTED UNDER ANY
11 STATE LAWS, DID YOU?

12 **A.** NOT FOR CERTAIN.

13 **MR. LAFAYETTE:** I WOULD LIKE TO READ FROM THE
14 WITNESS'S DEPOSITION TESTIMONY.

15 **MS. SMALLETS:** OBJECTION.

16 **THE COURT:** IT'S NOT IMPEACHMENT. SHE SAID SHE WAS
17 NOT POSITIVE AND NOT FOR CERTAIN.

18 SO, THERE'S NO IMPEACHMENT. UNLESS I'M MISSING SOMETHING.
19 YOU CAN POINT ME TO LINES.

20 **MR. LAFAYETTE:** FINE, YOUR HONOR.

21 **BY MR. LAFAYETTE:**

22 **Q.** SO THAT DAY, AS A RESULT OF THIS INCIDENT, YOU ARE UNAWARE
23 OF ANYBODY GETTING HURT; IS THAT TRUE?

24 **A.** I'M SORRY, DID YOU SAY "AS OF TODAY"?

25 **Q.** AS OF THE -- WITH REGARD TO THAT INCIDENT, YOU ARE UNAWARE

1 OF ANYBODY BEING INJURED.

2 A. CORRECT.

3 Q. YOU WERE NOT INJURED, WERE YOU?

4 A. NO.

5 Q. AND YOU DIDN'T GO TO A DOCTOR, DID YOU?

6 A. NO.

7 Q. NOW AROUND THE BASE OF THE TANK, THERE'S A CONCRETE
8 BARRIER?

9 A. THERE'S A -- THEY CALL IT A DIKE.

10 Q. A DIKE. AND HOW TALL IS THIS DIKE? ABOUT 18 INCHES YOU
11 WOULD SAY?

12 A. MAYBE A LITTLE LESS. ABOUT 18 INCHES --

13 Q. IT'S KIND OF THINK? ABOUT 6 INCHES THICK?

14 A. I WOULD SAY IT'S ABOUT MAYBE LIKE A FOOT HIGH. MAYBE NOT
15 18 INCHES.

16 Q. HOW THICK?

17 A. FIVE INCHES THICK. CEMENT, LIKE CEMENT LITTLE BARRIER
18 LIKE THIS (INDICATING).

19 Q. IS THE BASE OF THIS DIKE CONCRETE AS WELL?

20 A. IT IS CONCRETE, BUT THERE'S USUALLY....

21 Q. THERE'S USUALLY OYSTER SHELLS IN THERE, RIGHT?

22 A. I BELIEVE THAT'S WHAT'S USUALLY IN THERE IN CASE OF....

23 Q. OKAY.

24 NOW, ASIDE FROM YOU TAKING SOME ACTION TO FILL OUT A
25 REQUISITION TO GET THE SIGHT GLASS REPAIRED, YOU WERE ALSO

1 WORRIED THAT OTHERS HAD DONE THAT AS WELL, RIGHT?

2 **A.** I THINK WE WERE ALL POSSIBLY REPORTING IT, BUT I'M NOT
3 SURE.

4 **Q.** OKAY.

5 **A.** I DON'T THINK I WAS THE ONLY ONE.

6 **Q.** SO NOW YOU NEVER OBSERVED A PUNCTURE IN THE TANK, DID YOU?

7 **A.** NO PUNCTURE IN THE TANK.

8 **Q.** SO -- AND WHAT YOUR UNDERSTANDING WAS, AT SOME POINT YOU
9 CAME TO UNDERSTAND THAT THE PROBLEM WITH THE SIGHT GLASS WHICH
10 IS SOMETHING HAD GOTTEN IN IT AND CLOGGED; IT IS THAT
11 ACCURATE?

12 **A.** THAT'S WHAT I WAS... I WAS TOLD THAT IT WAS PLUGGED.

13 **Q.** AND YOU DIDN'T -- YOU NEVER CAME UP WITH ANY OTHER
14 UNDERSTANDING AS TO WHAT HAD HAPPENED, RIGHT?

15 **A.** NO.

16 **Q.** NOW, DID YOU FILL OUT A ZERO TO SIXTY REPORT ON THIS
17 INCIDENT?

18 **A.** I DID NOT BECAUSE THAT'S WHAT THE SUPERVISORS DO. AND I
19 DIDN'T KNOW WHERE TO FIND A ZERO TO SIXTY REPORT, BUT I
20 REQUESTED TO FILL ONE OUT WITH CAMERON.

21 **Q.** SO THE ONLY REASON YOU DIDN'T FILL OUT THE ZERO TO SIXTY
22 REPORT WAS BECAUSE YOU DIDN'T KNOW WHERE TO FIND ONE?

23 **A.** NO. BECAUSE I WAS THE -- I WAS TRYING TO REPORT IT WITH
24 CAMERON, AND CAMERON SAID WE'RE NOT. AND I NEVER HAD FILLED
25 OUT A ZERO TO SIXTY. I WAS UNDER THE IMPRESSION SUPERVISORS

1 DO THAT, BUT I COULD HAVE BEEN WRONG.

2 Q. THOSE ARE ALL THE REASONS WHY YOU DIDN'T FILL OUT THE ZERO
3 TO SIXTY?

4 A. YES.

5 Q. WHEN CAMERON WENT OUT TO FIX -- TO PUT SOME MORE OYSTER
6 SHELLS OUT, DID HE HAVE ON SOME GLOVES?

7 A. DON'T KNOW IF I CAN REMEMBER TODAY IF HE HAD GLOVES OR
8 NOT.

9 Q. OKAY.

10 A. I KNOW HE HAD SOME PPE BUT NOT ALL OF IT.

11 Q. OKAY. WHAT DO YOU MEAN BY THAT?

12 A. I REMEMBER THAT HE DIDN'T HAVE ALL OF THE PROPER
13 PROTECTIVE EQUIPMENT BUT THAT HE DID THE JOB ANYWAY.

14 Q. WHAT PART OF THE PROTECTIVE EQUIPMENT DID HE HAVE ON?

15 A. I CAN'T REMEMBER TODAY WHAT HE HAD ON. I JUST REMEMBER
16 THAT HE DIDN'T HAVE IT ALL.

17 Q. DID YOU THINK HE WAS GOING OUT THERE --

18 A. HE DIDN'T HAVE A FULL SUIT ON. I'M JUST TRYING TO
19 REMEMBER. I DON'T THINK HE PUT A FULL SUIT ON. MAYBE -- I
20 DON'T REMEMBER.

21 Q. SO AT SOME POINT YOU GET ASSIGNED TO A DEPARTMENT, RIGHT?

22 A. RIGHT.

23 Q. AND YOU DON'T KNOW WHO MADE THE DECISION TO ASSIGN YOU AND
24 THE REST OF YOUR CLASSMATES TO THE DEPARTMENTS, RIGHT?

25 A. NO.

1 Q. OKAY.

2 AND JUST SO THAT I AM CLEAR, YOU WERE NOT DISGRUNTLED
3 ABOUT NOT GOING TO LOGISTICS, WERE YOU?

4 A. NO.

5 Q. AND, IN FACT, YOU WERE EXCITED, EAGER, AND EXCITED TO BE
6 GOING TO OPCEN, WEREN'T YOU?

7 A. NOT THAT IT WAS SPECIFICALLY OPCEN. I WAS JUST EXCITED
8 AND EAGER TO BE GOING TO MY DEPARTMENT. IT PROBABLY WOULD
9 HAVE FELT THAT WAY REGARDLESS OF WHATEVER DEPARTMENT I GOT.
10 EXCITED TO GET TO OUR REAL JOBS.

11 MR. LAFAYETTE: I WOULD LIKE TO READ FROM THE
12 WITNESS'S DEPOSITION TESTIMONY AT PAGE 65, 14 THROUGH 16.

13 THE COURT: WELL, IT'S -- OKAY, GO AHEAD.

14 MR. LAFAYETTE: (READING)

15 "QUESTION:"

16 THE COURT: THE QUESTION SAYS "OKAY".

17 MR. LAFAYETTE: (READING)

18 "OKAY.

19 "ANSWER: BUT STILL, I WAS EAGER AND EXCITED TO BE IN
20 OPCEN."

21 BY MR. LAFAYETTE:

22 Q. NOW, HOW MANY MEETINGS DID YOU ATTEND WITH -- WHERE
23 CHRISTINE LAYNE WAS PRESENT?

24 A. TWO MEETINGS, AND THREE IF YOU COUNT THE FINAL TERMINATION
25 MEETING.

1 Q. TWO MEETINGS --

2 A. ACTUALLY --

3 Q. -- AND THREE IF YOU COUNT THE FINAL TERMINATION MEETING.

4 SO THAT MAKES THREE MEETINGS YOU HAD WITH MS. LAYNE,
5 RIGHT?

6 A. YEAH. THEN IF YOU MEAN LIKE ENCOUNTERS, SHE ALSO CAME AND
7 SPOKE TO OUR ENTIRE CLASS OF 22, BUT NOT ME INDIVIDUALLY.

8 Q. OKAY.

9 A. SO THAT'S THE FOUR ENCOUNTERS.

10 Q. LET SEE IF I CAN UNDERSTAND IT.

11 IN THAT FIRST SIX TO EIGHT WEEKS, HOWEVER LONG THAT WAS,
12 MS. LAYNE AND SOME OTHER PEOPLE FROM HUMAN RESOURCES CAME AND
13 GAVE SOME PRESENTATIONS, RIGHT?

14 A. RIGHT.

15 Q. THEY TALKED ABOUT, AMONG OTHER THINGS, THE THINGS THAT YOU
16 COULD DO IF YOU THOUGHT YOU WERE THE VICTIM OF HARASSMENT OR
17 DISCRIMINATION, RIGHT?

18 A. I DON'T REMEMBER WHAT THEY TALKED ABOUT. BUT I DEFINITELY
19 WAS MADE AWARE THAT SHE WAS HR. I CAN'T REMEMBER.

20 Q. DID YOU GET SOME DOCUMENTS RELATED --

21 A. YEAH, I THINK THEY HANDED OUT DOCUMENTS REGARDING SHELL
22 POLICIES.

23 Q. OKAY. CODE OF CONDUCT? SHELL'S CODE OF CONDUCT?

24 A. MOST LIKELY.

25 Q. OKAY. TALKED ABOUT WHAT YOU SHOULD DO IF YOU THINK

1 SOMETHING IS GOING WRONG; DID THEY TALK ABOUT STUFF LIKE THAT
2 WITH YOU IN THE ORIENTATION, IN THE ONBOARDING PROCESS?

3 **A.** I'M ASSUMING SO, BUT I DON'T REMEMBER ANYTHING SPECIFIC.

4 **Q.** YOU BELIEVE THEY DID BUT YOU DON'T HAVE A SPECIFIC
5 RECOLLECTION, RIGHT?

6 **A.** UH-HUH.

7 **Q.** SO THAT'S OVER THERE. SO THEN YOU SAY YOU HAD THREE OTHER
8 MEETINGS WITH HER, CORRECT?

9 **A.** CORRECT.

10 **Q.** THE LAST ONE WAS THE TERMINATION, RIGHT?

11 **A.** RIGHT.

12 **Q.** WHEN WAS THE ONE BEFORE THAT?

13 **A.** I BELIEVE THAT WAS THE MEETING WITH RAY JONES AND NICK
14 BACKENS.

15 AND WHO ELSE WAS THERE? RAY JONES, NICK BACKENS,
16 CHRISTINE, AND ERIC PEREZ.

17 **Q.** OKAY. SO WHEN WAS THE OTHER ONE?

18 **A.** SOMETIME PRIOR TO THAT WITH ERIC PEREZ. I DON'T REMEMBER
19 THE DATES ANY... ANY LONGER.

20 **Q.** CAN YOU GIVE ME A DATE OF THE ONE THAT WAS CLOSEST TO THE
21 TERMINATION? WHAT IS THE DATE OF THAT ONE?

22 **A.** AUGUST?

23 **Q.** ARE YOU GUESSING OR ARE YOU TELLING ME?

24 **A.** I'M GUESSING.

25 **Q.** YOU DON'T KNOW. OKAY.

1 WHEN IS THE MEETING THAT YOU HAD WITH HER THAT WAS BEFORE
2 THAT?

3 **A.** WELL, IT IS AFTER -- SO JULY. I THINK THERE WAS A MEETING
4 IN JULY AND A MEETING IN AUGUST. THAT'S MY BEST GUESS.

5 **Q.** THAT'S YOUR BEST GUESS?

6 **A.** UH-HUH.

7 **Q.** ALL RIGHT.

8 NOW, IN ONE OF THESE MEETINGS WERE YOU TOLD THAT YOU WERE
9 GOING TO HAVE TO NAME NAMES?

10 **A.** I WAS TOLD THAT I WOULD HAVE TO NAME NAMES OF PEOPLE WHO
11 COULD BE WITNESSES.

12 **Q.** THAT'S RIGHT --

13 **A.** I WAS CLAIMING --

14 **Q.** THEY WANTED TO KNOW WHO THE WITNESSES WERE WHO YOU SAID
15 COULD VERIFY COMMENTS THAT YOU WERE MAKING AND/OR WHO HAD BEEN
16 TREATED DIFFERENTLY THAN YOU, RIGHT?

17 **A.** RIGHT.

18 **MS. SMALLETS:** OBJECTION --

19 **THE WITNESS:** AND I SAID THE OTHER THREE --

20 **BY MR. LAFAYETTE:**

21 **Q.** AND SO --

22 **THE COURT:** FIRST OF ALL, IF YOU MAKE AN OBJECTION,
23 YOU NEED TO SPEAK LOUDER. SECOND OF ALL, OVERRULED.

24 **BY MR. LAFAYETTE:**

25 **Q.** SO, NOW -- AND THAT'S WHAT MS. LAYNE SAID, RIGHT?

1 **A.** I'M SORRY, I LOST YOU. WHAT DID MS. LAYNE SAY?

2 **Q.** I WILL JUST MOVE ON.

3 SO AFTER THAT CONVERSATION, WOULD IT BE ACCURATE THAT
4 MR. PEREZ CAME BACK TO YOU AT SOME LATER POINT TO ASK YOU IF
5 YOU HAD SOME NAMES TO SHARE?

6 **A.** NO.

7 **MR. LAFAYETTE:** I WOULD LIKE TO READ TWO SECTIONS OF
8 THE DEPOSITION TRANSCRIPT. PAGE 555, LINES 13 THROUGH 15 AND
9 LINES (SIC) 556, 5 THROUGH 7.

10 **THE WITNESS:** DO YOU WANT ME TO ELABORATE --

11 **THE COURT:** HOLD ON, PLEASE.

12 (PAUSE IN THE PROCEEDINGS.)

13 **THE COURT:** SO THE PREPOSITION IN THE FIRST IS
14 FEMALE, NOT MALE.

15 **MR. LAFAYETTE:** YES.

16 **THE COURT:** YOU WERE TALKING ABOUT PEREZ. MR. PEREZ
17 IS NOT A FEMALE.

18 **MR. LAFAYETTE:** THAT'S CORRECT, YOUR HONOR.

19 **THE COURT:** AND SO SHE SAID. THAT'S NOT "HE SAID".

20 **MR. LAFAYETTE:** SO THEN -- SO 556 IS -- "SO SOMEONE
21 CHECKED BACK WITH YOU."

22 **THE COURT:** DENIED FOR IMPEACHMENT PURPOSES. THIS
23 ISN'T THE SAME. YOU'VE GOT A FEMALE AND THEN THE OTHER ONE
24 DOESN'T SAY ANYTHING ABOUT NAMES.

25

1 **BY MR. LAFAYETTE:**

2 **Q.** WHEN YOU WERE HAVING THE CONVERSATION WITH MS. CHRISTINE
3 LAYNE, WERE THERE OTHER PEOPLE PRESENT?

4 **A.** WHICH CONVERSATION?

5 **Q.** THE ONE WHERE SHE'S ASKING YOU FOR NAMES, WASN'T MR. PEREZ
6 PRESENT?

7 **A.** ERIC PEREZ, YES, WAS PRESENT.

8 **Q.** THAT'S RIGHT. AND THE OTHER PERSON WHO WAS PRESENT WAS
9 MR. RAY JONES, RIGHT?

10 **A.** RIGHT.

11 **Q.** OKAY.

12 AND AT SOME POINT IN TIME AFTER YOU HAD THAT CONVERSATION
13 WITH MS. LAYNE, AND WHERE MR. JONES WAS PRESENT AND WHERE
14 MS. LAYNE SAID SHE NEEDED TO HAVE NAMES, MR. PEREZ, WHO WAS IN
15 THE ROOM, CAME BACK TO YOU TO CHECK IN WITH YOU, DIDN'T HE?

16 **A.** WE HAD A -- WE DID END UP HAVING A FOLLOW-UP CONVERSATION.

17 **Q.** THANK YOU.

18 AND IN THAT FOLLOW-UP CONVERSATION, HE WAS ASKING YOU FOR
19 THE NAMES AND WITNESSES, CORRECT?

20 **A.** UNDER MY IMPRESSION HE WAS ASKING ME, DID I TALK TO THEM
21 AND GET THEIR PERMISSION, JOSE, PATRICK, AND MENA.

22 DID I -- DID I TALK TO THEM YET? HE ASKED ME, DID I TALK
23 TO THEM? DID I GET THEIR PERMISSION.

24 **Q.** WAS HE ASKING YOU FOR NAMES OF WITNESSES? I'M NOT ASKING
25 YOU ABOUT WHETHER OR NOT YOU GOT PERMISSION FROM ANYONE.

1 I'M REALLY ASKING YOU, DID HE ASK YOU FOR THE NAMES OF
2 WITNESSES?

3 A. I THINK HE ALREADY HAD THE NAMES. I TOLD HIM THE OTHER
4 THREE IN THE CLASS.

5 Q. THE ONLY WITNESSES YOU EVER GAVE HIM WERE THE NAMES OF THE
6 OTHER THREE PEOPLE IN THE CLASS, RIGHT?

7 A. AT THAT TIME.

8 Q. SO DID YOU EVER GIVE HIM ANY NAMES OTHER THAN THE NAMES OF
9 THE THREE PEOPLE IN THE CLASS?

10 A. I TOLD -- YEAH, I GAVE HIM OTHER NAMES BECAUSE I TOLD HIM
11 ABOUT JEFF FISCHER.

12 Q. OKAY.

13 A. AND I TOLD HIM WHEN JEFF FISCHER MADE THAT COMMENT ALMOST
14 HALF THE CLASS HEARD IT. SO I TOLD HIM WHO I THOUGHT WAS
15 THERE AT THE TIME.

16 Q. OKAY. LET ME SEE IF I THINK I UNDERSTAND IT.

17 YOU GAVE HIM THE NAMES OF THE PEOPLE WHO WERE IN YOUR
18 CLASS, CORRECT?

19 A. CORRECT.

20 Q. AND THAT'S THREE PEOPLE, RIGHT?

21 A. EVENTUALLY THREE, YES.

22 Q. THAT'S WHAT I'M ASKING YOU.

23 THREE PEOPLE, RIGHT?

24 A. RIGHT.

25 Q. AND SO WHEN YOU DIDN'T WORK DIRECTLY WITH THOSE THREE

1 PEOPLE AFTER YOU GOT OUT OF THE CLASS WITH JEFF FISCHER,
2 CORRECT?

3 YOU HAD DIFFERENT SHIFTS, LET'S PUT IT THIS WAY. I WILL
4 MAKE IT REALLY SIMPLE.

5 **A.** YEAH. FOR THE MOST PART, TYPICALLY WE DO NOT WORK ON THE
6 SAME SHIFT.

7 **Q.** THAT'S WHAT I'M SAYING. OKAY?

8 NOW WHEN CHRISTINE LAYNE ASKED YOU TO IDENTIFY WITNESSES,
9 WOULD IT BE ACCURATE THAT YOU SAID WORDS TO THE EFFECT OF, YOU
10 DIDN'T WANT TO IDENTIFY PEOPLE?

11 **A.** NO.

12 **MR. LAFAYETTE:** I WOULD LIKE TO READ FROM THE
13 WITNESS'S DEPOSITION TRANSCRIPT, PAGE 557, 01 THROUGH 13,
14 PICKING UP AGAIN AT LINE 24 TAKING IT TO 558:4.

15 **MS. SMALLETS:** EXCUSE ME. WHAT WERE THE LINE
16 NUMBERS?

17 **MR. LAFAYETTE:** PAGE 557, LINE 1 THROUGH 13, PICKING
18 UP AGAIN AT LINE 24 GOING THROUGH 558:4.

19 **MS. SMALLETS:** OBJECTION, NOT IMPEACHMENT.

20 **THE COURT:** I AGREE SO FAR. LET ME FINISH READING.

21 (PAUSE IN THE PROCEEDINGS.)

22 **THE COURT:** OKAY. 557 IS DENIED. LET ME LOOK AT
23 558.

24 YOU CAN READ AT 557:24 THROUGH 558:4.

25 **MR. LAFAYETTE:** THANK YOU, YOUR HONOR.

1 "QUESTION: AND DO YOU RECALL -- AND DO YOU RECALL
2 YOU SAYING THAT YOU DIDN'T WANT TO IDENTIFY PEOPLE?
3 DO YOU REMEMBER SAYING SOMETHING LIKE THAT WHO WERE
4 BEING TREATED BETTER THAN YOU?

5 "ANSWER: NOT EXACTLY THAT, BUT SOMETHING CLOSE TO
6 THAT I SAID."

7 **BY MR. LAFAYETTE:**

8 **Q.** NOW, YOU KEEP TALKING ABOUT THE THREE NEW HIRES WHO WERE
9 IN YOUR CLASS, RIGHT?

10 **A.** RIGHT.

11 **Q.** BUT YOU DIDN'T TALK TO THE THREE NEW HIRES ABOUT BEING
12 INTERVIEWED, DID YOU?

13 **A.** I DON'T THINK THAT I DID. DEFINITELY TALKED ABOUT WHAT
14 HAPPENED, BUT I DON'T THINK I EVER TALKED TO THEM ABOUT BEING
15 INTERVIEWED.

16 **Q.** THANK YOU.

17 SO NOW LET'S TALK ABOUT AUGUST 29.

18 **A.** OKAY.

19 **Q.** OKAY?

20 NOW BEFORE YOU SPOKE WITH ERIC PEREZ ABOUT THE STICKER ON
21 THAT DAY, YOU SPOKE TO HIM ABOUT SOMETHING ELSE, DIDN'T YOU?

22 **A.** YES. WE SPOKE ABOUT A LOT OF -- I HAD A FEW TIMES WITH
23 HIM TELLING HIM I WAS BEING TREATED UNFAIRLY.

24 **Q.** SO PRIOR TO YOU TALKING ABOUT THE STICKER ON THAT DATE,
25 YOU SPOKE TO ERIC PEREZ ABOUT NOT BEING TREATED FAIRLY,

1 CORRECT?

2 A. CORRECT.

3 Q. AND YOU DID THAT BECAUSE HE ASKED THAT QUESTION OF YOU,
4 RIGHT?

5 A. NO, I DON'T THINK SO. I MEAN, I -- I'M SORRY. YOU SAID I
6 TOLD HIM I WAS BEING TREATED UNFAIRLY BECAUSE HE CAME TO ME
7 AND ASKED ME?

8 Q. I HAVE ANOTHER QUESTION.

9 NOW BEFORE YOU CAME TO -- LET'S TALK ABOUT THE BAKER TANK.

10 A. OKAY.

11 Q. HOW BIG IS THIS TANK?

12 A. PRETTY BIG. LIKE 12 FEET LONG AND 5 FEET WIDE.

13 Q. HOW TALL?

14 A. SIX FEET -- FIVE -- YEAH, 6 FEET.

15 Q. IS IT ON WHEELS?

16 A. NO, NOT 6 FEET. SEVEN FEET MAYBE.

17 Q. IS IT ON WHEELS?

18 A. NOT THAT I REMEMBER, NO. IT IS A TEMPORARY PIECE OF
19 EQUIPMENT THAT'S IN THERE.

20 Q. OKAY. SO THIS BAKER TANK HAS A HOSE, RIGHT, THAT CONNECTS
21 TO SOMETHING, RIGHT?

22 A. THE HOSE DOESN'T CONNECT TO ANYTHING. THE HOSE IS JUST
23 DRAINED INTO THE SEWER.

24 Q. OKAY. SO THE HOSE IS CONNECTED TO THE BANKER -- BAKER
25 TANK, RIGHT?

1 **A.** UH-HUH.

2 **Q.** THEN THAT HOSE RUNS SOMEPLACE AND DRAINS INTO SOME CATCH
3 BASIN, OR SOMETHING, RIGHT?

4 **A.** YES.

5 **Q.** AND SO THE REASON YOU ARE OPENING IT IS WHAT?

6 **A.** THE REASON WE WERE OPENING IT IS BECAUSE IT WAS A -- THEY
7 WERE IN TURNAROUND. SO THEY WERE TRYING TO GET RID OF THIS
8 MATERIAL. SO WE OPENED IT A LITTLE BIT EVERY DAY TO EMPTY
9 THAT BAKER TANK SO THEY COULD GET THE BAKER TANK OUT.

10 **Q.** SO THAT IT DOESN'T GET FULL, RIGHT?

11 **A.** NOT -- THERE WAS NO CONCERN ABOUT IT GETTING FULL. THEY
12 WERE JUST GETTING RID OF THE MATERIAL INSIDE OF IT TO REMOVE
13 IT FROM THE UNIT BECAUSE IT WASN'T REGULARLY THERE.

14 **Q.** YOU WENT THROUGH TRAINING, RIGHT?

15 **A.** I DID GO THROUGH TRAINING.

16 **Q.** YOU WENT THROUGH YOUR PARALLEL TRAINING, RIGHT?

17 **A.** CORRECT.

18 **Q.** AND YOU TALKED TO US BEFORE, DIDN'T YOU, ABOUT OPENING
19 VALVES AND CLOSING VALVES, RIGHT?

20 **A.** YES.

21 **Q.** AND THERE WAS TALK ABOUT, YOU KNOW, NOT OPENING A VALVE IF
22 YOU DON'T KNOW WHAT'S GOING TO COME OUT OF IT, RIGHT?

23 DID THEY TALK ABOUT SAFETY RELATED TO OPENING VALVES?

24 **A.** YES.

25 **Q.** DID THEY TALK ABOUT SOME OF THE DANGEROUS THINGS THAT CAN

1 HAPPEN WHEN YOU OPEN VALVES?

2 A. YES.

3 Q. SO NOW -- SO THIS VALVE WASN'T PLUGGED WHEN YOU OPENED IT,
4 RIGHT?

5 A. IT WAS NOT PLUGGED.

6 Q. OKAY. AND YOU OPENED IT AND THEN WHATEVER WAS IN THERE
7 CAME RUSHING OUT, RIGHT?

8 A. CORRECT.

9 Q. AND THAT SURPRISED YOU, DIDN'T IT?

10 A. YES.

11 Q. AND THEN YOU REALIZED THAT YOU NEEDED TO SHUT THE VALVE,
12 RIGHT?

13 A. I SHUT THE VALVE RIGHT AWAY.

14 Q. YES. OKAY.

15 A. OPENED IT. I DON'T EVEN THINK I TOOK MY HANDS OFF, AND
16 SHUT IT.

17 Q. THEN YOU SHUT IT.

18 HOW BIG IS THIS VALVE? LITTLE VALVE LIKE I HAVE IN MY
19 HOME?

20 A. MAYBE BIGGER. HONESTLY I DON'T REMEMBER, IT'S DEFINITELY
21 NOT BIG.

22 Q. HOW BIG?

23 A. SMALL.

24 Q. HOW WIDE IS IT?

25 A. I DON'T REMEMBER, BUT I THINK IT WAS LIKE THIS

1 (INDICATING) .

2 Q. WHAT'S THAT, ABOUT 10 INCHES?

3 A. YEAH.

4 Q. SO ABOUT 10 INCHES.

5 SO IT TAKES TWO HANDS, RIGHT? IT TAKES TWO HANDS TO OPEN
6 THIS VALVE, RIGHT?

7 A. NO.

8 Q. DID YOU DO IT WITH TWO HANDS OR ONE?

9 A. IT WASN'T EVEN NECESSARILY I DON'T THINK IT WAS A VALVE.
10 IT'S LIKE A JUST A PULL.

11 Q. OKAY. AND SO WHEN IT HAPPENED YOU CLOSED IT, RIGHT?

12 A. RIGHT.

13 Q. THEN YOU WENT TO TELL ERIC -- TELL CAMERON?

14 A. I WENT DIRECTLY TO TELL CAMERON.

15 Q. OKAY. AND YOU TOLD HIM?

16 A. YES.

17 Q. AND HE ASKED YOU, DID YOU CLOSE IT, RIGHT?

18 A. CORRECT.

19 Q. AND WHAT WAS YOUR ANSWER?

20 A. THAT I DID CLOSE IT.

21 Q. NOW... AND WHAT YOU DID WAS HUMAN ERROR, WASN'T IT?

22 A. CORRECT.

23 Q. AND YOU UNDERSTAND THAT THE RISK OF AN ERROR LIKE THAT IS
24 A RISK OF A LOSS OF CONTAINMENT, CORRECT?

25 A. YES.

1 Q. IT IS ALSO A RISK OF EXPOSURE, RIGHT?

2 A. YES.

3 Q. YOU ALSO UNDERSTAND THAT IT IS A RISK THAT PEOPLE COULD BE
4 HARMED AND INJURED, RIGHT?

5 A. YES.

6 Q. AND ALL THIS HAPPENED WHILE YOU WERE STILL ON PROBATION,
7 RIGHT?

8 A. YES.

9 Q. AND IF IT WERE UP TO YOU AND YOU WERE IN CAMERON'S SHOES,
10 YOU, TOO, WOULD HAVE WRITTEN UP THE PERSON THAT COMMITTED THAT
11 HUMAN ERROR, WOULDN'T YOU?

12 A. YES. WELL, NO, I WOULDN'T WRITE THEM UP. BUT I WOULD
13 DEFINITELY DO THE ZERO TO SIXTY AND FOLLOW THE SHELL PROCEDURE
14 FOR WHATEVER IT IS WHEN PEOPLE MAKE MISTAKES LIKE THAT.

15 MR. LAFAYETTE: I WOULD LIKE FOR YOU -- READ FROM
16 PAGE 405, LINES 4 THROUGH 5.

17 THE COURT: GO AHEAD.

18 MR. LAFAYETTE: I AM NOT ASKING --

19 THE COURT: SHE QUALIFIED. GO AHEAD.

20 MR. LAFAYETTE: (READING)

21 "BUT IF IT WAS UP TO ME, I WOULD WRITE IT UP."

22 BY MR. LAFAYETTE:

23 Q. BEFORE YOU OPEN A VALVE LIKE THAT, IT'S A GOOD PRACTICE
24 AND A SAFE PRACTICE TO DO A VISUAL CHECK TO SEE IF ANYTHING IS
25 CONNECTED, RIGHT?

1 **A.** RIGHT.

2 **Q.** YOU DIDN'T DO THAT, DID YOU?

3 **A.** NO.

4 **Q.** YOU UNDERSTAND THAT ONCE YOU REPORTED WHAT YOU HAD DONE,
5 YOU CREATED AN IMPRESSION THAT YOU HAD BECOME COMPLACENT,
6 RIGHT?

7 **A.** YOU'RE ASKING IF I --

8 **MS. SMALLETS:** OBJECTION, CALLS FOR SPECULATION.

9 **THE COURT:** SUSTAINED AS TO THE FORM OF THE QUESTION.
10 TRY A DIFFERENT ONE.

11 **BY MR. LAFAYETTE:**

12 **Q.** YOU UNDERSTAND THAT WHAT YOU DID MADE YOU APPEAR TO BE
13 COMPLACENT, RIGHT?

14 **A.** I UNDERSTAND THAT IT COULD LOOK THAT WAY, YEAH.

15 **Q.** AND YOU LEARNED IN THE CLASS WITH MR. JOYCE THAT
16 COMPLACENCY IS WHAT GETS PEOPLE KILLED IN REFINERIES, RIGHT?

17 **A.** YES. ONE OF THE THINGS.

18 **Q.** SO NOW... AND WITH THE BAKER TANK, AS IT TURNED OUT, YOU
19 DIDN'T CLOSE THE VALVE ALL THE WAY, DID YOU?

20 **A.** I THINK THAT I CLOSED THE VALVE ALL THE WAY. I WASN'T THE
21 LAST -- I THINK THAT I CLOSED THE VALVE ALL THE WAY.

22 **Q.** DIDN'T SOMEONE COME AND TELL YOU THAT IT HADN'T BEEN
23 CLOSED ALL THE WAY?

24 **A.** HE, I BELIEVE, SAID WAS WALKING BY AND NOTICED A PUDDLE.
25 AND HE WASN'T SURE IF IT WAS LEAKING. SO HE'S LETTING ME KNOW

1 BECAUSE IF ANYONE TOUCHES ANYTHING IN YOUR UNIT, THEY'RE
2 USUALLY NOT SUPPOSED TO, BUT HE'S LETTING ME KNOW THAT HE
3 TOUCHED IT. AND HE SAID --

4 Q. HE CLOSED IT? DID HE SAY HE CLOSED IT?

5 A. HE SAID I NOTICED THE PUDDLE. I'M NOT SURE WHERE IT CAME
6 FROM OR IF IT WAS LEAKING, SO I WENT AHEAD AND MADE SURE IT
7 WAS TIGHT AND CLOSED.

8 AND I TOLD HIM, ACTUALLY IT'S BECAUSE I OPENED IT.

9 Q. AND DID YOU -- DID CAMERON CURRAN COME TO YOU AND ASK YOU
10 ABOUT THAT, ABOUT WHY THE PUDDLE WAS BIGGER THAN WHAT YOU HAD
11 SAID.

12 DID HE ASK YOU THAT?

13 A. I DON'T KNOW IF HE CAME TO ME AND ASKED ME THAT. BUT WE
14 WENT BACK OUT TOGETHER AND LOOKED AT IT, AND HE TOLD ME THAT
15 IT WAS MUCH BIGGER THAN HE THOUGHT IT WAS.

16 Q. AND WHAT DID YOU SAY?

17 A. I DON'T REMEMBER.

18 Q. DID YOU MENTION SOMEONE SAYING THAT THEY HAD COME LATER
19 AND NOTICED THE PUDDLE AND TURNED THE VALVE?

20 A. YES.

21 Q. IN YOUR CLASS THERE WERE THE FOUR OF YOU. WERE THERE TWO
22 PEOPLE WHO WERE FURTHER ALONG THAN THE OTHER TWO?

23 A. YEAH. MENA AND JOSE.

24 Q. THEY WERE AHEAD OF YOU AND PATRICK, RIGHT?

25 A. YEAH. THEY BOTH HAD PREVIOUS EXPERIENCE.

1 Q. I'M GOING TO ASK YOU A FEW QUESTIONS ABOUT MICHAEL BECK.

2 A. OKAY.

3 Q. MICHAEL BECK NEVER SAID ANYTHING THAT MADE YOU THINK HE
4 WAS BIASED AGAINST YOU, DID HE?

5 A. NO.

6 WELL --

7 Q. HE NEVER SAID ANYTHING TO MAKE YOU THINK HE WAS BIASED
8 AGAINST WOMEN, DID HE?

9 A. NO.

10 Q. ASK YOU A FEW QUESTIONS ABOUT CAMERON CURRAN.

11 A. YES.

12 Q. CAMERON CURRAN NEVER SAID ANYTHING TO YOU THAT MADE YOU
13 THINK HE HAD A BIAS AGAINST WOMEN, DID HE?

14 A. NO, NOT PARTICULARLY.

15 MR. LAFAYETTE: I WOULD LIKE TO READ FROM THE
16 WITNESS'S DEPOSITION TESTIMONY, YOUR HONOR, PAGE 411, LINES 23
17 TO 25.

18 THE COURT: GO AHEAD.

19 MR. LAFAYETTE: (READING)

20 "QUESTION: SO NOW, DID CURRAN EVER SAY ANYTHING TO
21 YOU THAT MADE YOU THINK HE HAD A BIAS AGAINST WOMEN?

22 "NO."

23 BY MR. LAFAYETTE:

24 Q. SO THE ONLY THING THAT MR. CURRAN EVER DID THAT MADE YOU
25 THINK THAT HE HAD A BIAS AGAINST WOMEN MAY HAVE BEEN THAT HE

1 FOLLOWED YOU AROUND, RIGHT?

2 **A.** THAT AND, YOU KNOW, HIM REPEATEDLY ASKING ME WHY I WANTED
3 TO WORK THERE. I DIDN'T NECESSARILY TAKE IT AGAINST WOMEN AT
4 FIRST, BUT I TOOK IT OFFENSE -- LIKE BIAS AGAINST ME.

5 **Q.** IF HE HAD A CONCERN THAT YOU WEREN'T LEARNING AND THAT YOU
6 WEREN'T PROPERLY HANDLING THE PROCESSES OUT THERE, WOULD IT
7 HAVE BEEN APPROPRIATE IN YOUR MIND FOR HIM TO FOLLOW YOU?

8 **A.** IT WOULD HAVE BEEN APPROPRIATE OF HIM TO ASK ME IF I HAD
9 QUESTIONS OR NEEDED HELP. AND IF HE FELT I WAS, YOU SAID, NOT
10 LEARNING, FOR HIM TO FOLLOW ME, SURE.

11 **Q.** WHAT IF HE THOUGHT YOU WERE DOING UNSAFE THINGS? SHOULD
12 HE JUST LET YOU GO AND DO THINGS OR DO YOU THINK IT WOULD BE
13 APPROPRIATE FOR HIM TO CHECK AND SEE IF YOU WERE DOING THINGS
14 SAFELY?

15 **A.** YEAH, I GUESS SOMEBODY COULD DO THAT.

16 **Q.** NOW WITH REGARD TO MR. ERIC PEREZ, WOULD IT BE ACCURATE --

17 **THE COURT:** I CANNOT HEAR YOU.

18 **MR. LAFAYETTE:** SORRY.

19 **THE COURT:** SPEAK INTO THE MIC PLEASE.

20 **MR. LAFAYETTE:** I MOVE IT AWAY BECAUSE I BRUSH INTO
21 IT SO I CAN SEE THE PAGES. I CAN'T SEE THAT FAR.

22 **BY MR. LAFAYETTE:**

23 **Q.** SO THE ONLY THING THAT ERIC PEREZ DID THAT IN ANY WAY
24 WHATSOEVER MADE YOU THINK THAT HE MAY HAVE A BIAS AGAINST
25 WOMEN WAS THAT WHEN YOU WENT TO HIM IN MARCH AND YOU SAID YOU

1 THOUGHT GENERALLY THAT JEFF FISCHER WASN'T A GOOD GUY, HE SAID
2 HE DIDN'T AGREE WITH THAT. ISN'T THAT TRUE?

3 **A.** DID HE SAY HE DIDN'T AGREE WITH THAT? THAT IS TRUE.

4 **Q.** THAT'S THE ONLY REASON WHY YOU THINK HE MAY HAVE A BIAS
5 AGAINST WOMEN?

6 **A.** NO. I JUST CAME TO THAT CONCLUSION WHEN I LOST MY JOB
7 THAT -- AND HE DIDN'T TAKE MY COMPLAINT SERIOUSLY. I THOUGHT
8 MAYBE THAT COULD BE IT OR MAYBE HE JUST DIDN'T UNDERSTAND. I
9 DON'T KNOW.

10 **MR. LAFAYETTE:** I WOULD LIKE TO READ FROM THE
11 WITNESS'S DEPOSITION TRANSCRIPT PAGE 418, LINE 24 THROUGH 419,
12 LINE 10.

13 (PAUSE IN THE PROCEEDINGS.)

14 **THE COURT:** DENIED. MORE FOUNDATION.

15 **BY MR. LAFAYETTE:**

16 **Q.** YOU SAID... WOULD IT BE ACCURATE THAT YOU'RE UNSURE IF
17 MR. METCALF HAS A BIAS AGAINST WOMEN?

18 **A.** NO. I DON'T THINK THAT HE DID.

19 **Q.** ALL RIGHT.

20 **A.** I DON'T KNOW.

21 **Q.** SO WHEN YOU FIRST SPOKE WITH MR. PEREZ BACK IN FEBRUARY
22 AND MARCH, YOU DIDN'T TELL HIM THAT YOU THOUGHT YOU WERE BEING
23 TREATED DIFFERENTLY OR SINGLED OUT OR ANYTHING LIKE THAT
24 BECAUSE YOU THOUGHT YOU WERE A WOMAN, RIGHT?

25 **A.** I DIDN'T USE THOSE WORDS.

1 Q. YOU JUST SIMPLY SAID, I FEEL LIKE I'M BEING TREATED
2 DIFFERENTLY IN THE FIRST MEETING, CORRECT?

3 A. YEAH, AND THEN I GAVE HIM AN EXAMPLE THAT I THOUGHT MADE
4 IT CLEAR, WHICH WAS I COULD HAVE --

5 MR. LAFAYETTE: YOUR HONOR, THERE IS NO QUESTION
6 PENDING.

7 THE WITNESS: I'M SORRY.

8 THE COURT: WAIT FOR THE NEXT QUESTION.
9 GO AHEAD.

10 BY MR. LAFAYETTE:

11 Q. BUMPING THE PUMP. WHY DO YOU BUMP THE PUMP?

12 A. JUST TO MAKE SURE IT DOESN'T GET PLUGGED.

13 Q. IT DOESN'T GET WHAT? I DIDN'T HEAR YOU.

14 A. SO IT DOESN'T GET PLUGGED.

15 Q. OKAY.

16 A. THERE'S --

17 Q. SO WHEN YOU BUMP THIS PUMP, THERE'S A TWO-STEP PROCESS,
18 ISN'T THERE?

19 A. YOU JUST TURN IT ON AND TURN IT OFF.

20 Q. THEN WHAT DO YOU DO?

21 A. AND THAT'S IT.

22 Q. DO YOU CALL OUT TO THE CONTROL ROOM TO LET THEM KNOW THAT
23 YOU'VE BUMPED THE PUMP?

24 A. BEFORE YOU BUMP THE PUMP, YOU CALL AND LET THEM KNOW THAT
25 YOU'RE TURNING ON A PIECE OF EQUIPMENT, AND THEN THAT'S IT.

1 Q. AND THAT'S IT?

2 A. YES.

3 Q. DON'T YOU HAVE AN INTELLITRAK MACHINE WITH YOU?

4 A. OH, YES. AND YOU --

5 Q. YOU HAVE AN INTELLITRAK MACHINE, RIGHT?

6 A. RIGHT.

7 Q. WHAT IS AN INTELLITRAK MACHINE?

8 A. IT'S A LITTLE HAND-HELD DEVICE THAT YOU CARRY THROUGH THE
9 UNIT, AND IT TELLS YOU WHAT'S THE PRESSURE OF THIS, DID YOU
10 CHECK THE TEMPERATURE OF THIS. YOU HIT YES. DID YOU... THE
11 MOTOR, DID YOU TURN ON THIS MOTOR? IT WILL ASK YOU ABOUT THIS
12 PUMP THAT HE'S REFERRING TO.

13 Q. SO WHEN YOU -- WHEN YOU -- WHEN YOU DO THIS, FIRST YOU
14 HAVE TO LET SOMEONE KNOW YOU ARE ABOUT TO BUMP THE PUMP. THEN
15 YOU BUMP THE PUMP, AND THEN YOU ENTER INTO THE INTELLITRAK
16 MACHINE THAT YOU BUMPED THE PUMP, RIGHT?

17 A. YES. YOU CALL IN BUMPING THE PUMP OR WHATEVER YOU --
18 HOWEVER YOU PREFER TO SAY IT, AND LET THE BOARD OPERATOR KNOW.

19 Q. AND SO AT SOME POINT DID CAMERON CURRAN COME TO YOU AND IN
20 THE VERY FIRST INSTANCE SAY TO YOU, THAT THERE WAS A PROBLEM
21 WITH REGARD TO THE MANNER IN WHICH WHATEVER YOU WERE SUPPOSED
22 TO BE DOING WAS BEING DONE?

23 A. YES.

24 Q. AND IN THE VERY FIRST INSTANCE WHEN HE SAID IT TO YOU, HE
25 ASKED YOU, QUOTE, "DID YOU BUMP THE PUMP?" CLOSE QUOTE.

1 WOULD THAT BE ACCURATE?

2 **A.** I DON'T THINK I CAN KNOW FOR SURE WHAT HE SAID ANY MORE.

3 **Q.** THAT'S FINE.

4 **A.** HE ASKED ME SOMETHING TO THE EFFECT OF, IF I HAD --

5 (SIMULTANEOUS COLLOQUY)

6 **Q.** AND REGARDLESS --

7 **A.** -- ON AND OFF.

8 **Q.** I'M SORRY.

9 REGARDLESS OF WHAT YOU MAY NOW KNOW, DID YOU GIVE HIM AN
10 ANSWER TO HIS QUESTION OF BUMPING THE PUMP?

11 **A.** I THINK I TOLD HIM IF -- IF YOU MEAN DID I TURN IT ON AND
12 OFF, YES, I DID, I THINK.

13 **MR. LAFAYETTE:** COULD I HAVE A COPY OF HER TRANSCRIPT
14 SO SHE CAN TAKE A LOOK AT IT, PLEASE?

15 CAN YOU TURN IT TO PAGE 503?

16 MAY I APPROACH THE WITNESS, YOUR HONOR?

17 **THE COURT:** YOU MAY.

18 (BINDER HANDED TO WITNESS.)

19 **THE WITNESS:** THANK YOU.

20 **BY MR. LAFAYETTE:**

21 **Q.** LOOKING AT PAGE 503 SPECIFICALLY IF YOU LOOK DOWN THE
22 LINES ON THE PAGE, RIGHT?

23 **A.** I'M SORRY, 503, WHAT LINES?

24 **Q.** LINE 21.

25 DO YOU SEE WHERE IT SAYS, "THAT'S WHY WHEN HE SAID, DID

1 YOU BUMP THE PUMP, I SAID NO."

2 DO YOU SEE THAT?

3 A. YES.

4 Q. SO I UNDERSTAND THE REST OF WHAT YOUR TESTIMONY IS, AND I
5 WILL GET THERE, BUT RIGHT NOW THE FIRST THING YOU TOLD HIM IS
6 YOU HAD NOT BUMPED THE BUMP, RIGHT?

7 THAT'S WHAT YOU SAID, RIGHT?

8 A. UMM --

9 Q. I WITHDRAW THE QUESTION.

10 SO NOW HAD YOU CALLED IN TO THE CONTROLLER TO ALERT THE
11 CONTROLLER THAT YOU HAD BUMPED THE BUMP?

12 A. AT THAT POINT IN TIME I WAS UNAWARE THAT WAS PART OF WHAT
13 I NEEDED TO DO.

14 Q. SO JUST SO I UNDERSTAND IT, AS OF THAT MOMENT IN TIME, YOU
15 HADN'T CALLED THE CONTROLLER, AND YOU NOW TOLD MR. CAMERON
16 CURRAN THAT YOU HAD NOT BUMPED THE PUMP, RIGHT?

17 SO I HAVE ONE QUESTION LEFT FOR YOU. OKAY?

18 A. OKAY.

19 Q. DID YOU ENTER INTO THE INTELLITRAK MACHINE THAT YOU HAD,
20 IN FACT, BUMPED THE BUMP?

21 A. YES, I BELIEVE I TOLD CAMERON THAT I DID --

22 MR. LAFAYETTE: YOUR HONOR, IT'S NONRESPONSIVE.

23 THE WITNESS: OKAY. SORRY. REPEAT THE QUESTION.

24 BY MR. LAFAYETTE:

25 Q. DID YOU ENTER INTO THE INTELLITRAK MACHINE THAT YOU HAD,

1 IN FACT, BUMPED THE PUMP?

2 **A.** WHEN I ENTERED INTO THE INTELLITRAK, YES THAT I TURNED IT
3 ON AND OFF, I DID TURN IT ON AND OFF.

4 **Q.** THANK YOU.

5 **A.** YES.

6 **THE COURT:** OKAY. IT'S 12:58. ARE YOU SHIFTING --

7 **MR. LAFAYETTE:** I'M SHIFTING. I WILL --

8 **THE COURT:** LADIES AND GENTLEMEN -- YOU CAN STEP
9 DOWN, MS. NEWTON.

10 WE ARE GOING TO ALLOW A WITNESS WHO HAS BEEN WAITING ALL
11 DAY TO TESTIFY RIGHT NOW SO THAT WITNESS DOESN'T HAVE TO COME
12 BACK TOMORROW. OKAY? SO WE'LL FINISH OFF MS. NEWTON
13 TOMORROW, OR IF IT IS REALLY SHORT, WE WILL CONTINUE WITH HER
14 BEFORE THE END OF THE DAY.

15 **MS. SMALLETS:** YOUR HONOR, MAY I GET THE WITNESS
16 BINDER?

17 **THE COURT:** ALL RIGHT. MS. NUGENT, YOU CALL?

18 **MS. NUGENT:** BRIANNA NEWTON.

19 **THE CLERK:** STAND UP THERE.

20 (**BRIANNA NEWTON**, CALLED AS A WITNESS FOR THE PLAINTIFF,
21 HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:)

22 **THE WITNESS:** I DO.

23 **THE CLERK:** PLEASE BE SEATED. I WANT YOU TO SCOOT UP
24 AND PULL THE MICROPHONE UP TO YOU. PULL IT UP THERE AND
25 PLEASE STATE YOUR FULL NAME AND SPELL YOUR LAST NAME.

1 **THE WITNESS:** BRIANNA LEINAALA NEWTON. LAST NAME IS
2 N- AS IN NANCY -E-W-T-O-N.

3 **THE COURT:** GOOD AFTERNOON.

4 **MS. NUGENT:** COULD YOU REPEAT YOUR MIDDLE NAME AND
5 SPELL IT?

6 **THE WITNESS:** IT'S LEINAALA. L-E-I-N AS IN NANCY
7 -A-A-L-A.

8 **THE COURT:** GOOD AFTERNOON. YOU MAY PROCEED.

9 **DIRECT EXAMINATION**

10 **BY MS. NUGENT:**

11 **Q.** THANK YOU, MS. NEWTON.

12 HOW DO YOU KNOW CIARA NEWTON?

13 **A.** CIARA IS MY SISTER.

14 **Q.** IS SHE YOUR BIG SISTER?

15 **A.** SHE IS MY OLDER SISTER.

16 **Q.** HOW MUCH OLDER IS SHE THAN YOU?

17 **A.** SIX AND A HALF YEARS OLDER.

18 **Q.** DID YOU GROW UP WITH HER?

19 **A.** I DID.

20 **Q.** SAME HOUSE?

21 **A.** SAME HOUSE.

22 **Q.** DO YOU HAVE ANY OTHER SIBLINGS?

23 **A.** WE HAVE AN OLDER BROTHER.

24 **Q.** THE JURY HAS HEARD ABOUT YOUR FATHER'S DEATH IN
25 MARCH 2016.

1 BEFORE THAT, CAN YOU DESCRIBE THE FAMILIAL RELATIONSHIP
2 THAT THE FIVE OF YOU HAD?

3 **A.** WE HAD A REALLY CLOSE RELATIONSHIP. OUR -- MY FATHER WAS
4 REALLY FAMILY ORIENTED. WE WOULD GET TOGETHER ALMOST WEEKLY
5 ON THURSDAYS FOR TACOS. WE WOULD HAVE FAMILY GAME NIGHTS
6 OFTEN.

7 WE WERE JUST ALWAYS TOGETHER TO THE POINT WHERE WHEN I WAS
8 A TEENAGER, I WAS ANNOYED BY IT, BUT WE WERE ALWAYS TOGETHER.

9 **Q.** WHAT ABOUT YOU AND YOUR BIG SISTER, HOW OFTEN WOULD THE
10 TWO OF YOU SPEND TIME TOGETHER OUTSIDE OF THE GATHERINGS YOU
11 JUST DESCRIBED?

12 **A.** PRETTY OFTEN, ESPECIALLY MORE SO WHEN I STARTED -- WHEN I
13 WAS MORE OF AN OLDER TEENAGER. OBVIOUSLY THE AGE GAP BETWEEN
14 US WE DIDN'T -- WE PLAYED A LITTLE WHEN WE WERE YOUNGER BUT
15 SHE WAS TOO COOL FOR ME.

16 BUT AS I GOT OLDER, WE LIVE REALLY CLOSE TOGETHER. AND
17 WE, YOU KNOW, WE WILL GO SHOPPING OR WE WOULD GO SNOWBOARDING
18 TOGETHER WITH HER HUSBAND OR MY BOYFRIEND. WE DO HIKING
19 TOGETHER, TRIPS TO THE BEACH JUST THE TWO OF US.

20 **Q.** FAIR TO SAY THE TWO OF YOU ARE CLOSE?

21 **A.** YES.

22 **Q.** DO YOU RECALL HER EXPRESSING AN INTEREST IN GETTING A JOB
23 AT A REFINERY?

24 **A.** I DO. SO I HAVE TWO DIFFERENT INSTANCES. SO --

25 **Q.** LET ME ASK YOU.

1 FIRST OF ALL, WHEN WAS THE FIRST TIME THAT YOU CAN RECALL
2 YOUR SISTER EXPRESSING AN INTEREST IN A REFINERY-TYPE JOB?

3 **A.** WHEN I WAS A TEENAGER, BUT IT WAS MORE SO AS, LIKE, AN
4 IRON WORKER MAYBE PERHAPS BECAUSE MY DAD WORK IN REFINERIES
5 ALL THE TIME AS A PIPEFITTER AND IRON WORKER.

6 AND WHEN SHE WAS, YOU KNOW, OUT OF HIGH SCHOOL AROUND THAT
7 AGE, SHE HAD -- I REMEMBER HER EXPRESSING TO MY DAD TO HELP
8 GET HER A JOB, WHICH MY DAD DID NOT.

9 **Q.** DO YOU KNOW ANY REASON WHY YOUR DAD DID NOT?

10 **A.** HE DID NOT WANT HER WORKING IN THAT TYPE OF ENVIRONMENT.

11 **Q.** YOU WERE GOING TO MENTION A SECOND TIME THAT YOU HEARD
12 YOUR SISTER EXPRESS AN INTEREST IN REFINERY JOB?

13 WHAT WAS THAT?

14 **A.** THAT WAS WHEN SHE FOUND OUT ABOUT THE CLASSES THAT WERE
15 OFFERED FOR THE OPERATING -- OR TO BECOME AN OPERATOR, THE
16 CLASSES OFFERED.

17 **Q.** WHAT IS YOUR UNDERSTANDING OF WHAT CLASSES SHE WAS TALKING
18 ABOUT?

19 **A.** IT'S LIKE A PROGRAM, I THINK, IT WAS IN RICHMOND THAT IT'S
20 CLASSES THAT YOU CAN SIGN UP FOR THAT PREPARE YOU TO BECOME AN
21 OPERATOR.

22 **Q.** YOU MENTIONED YOUR DAD'S RESPONSE TO THE FIRST TIME THAT
23 YOU UNDERSTOOD SHE WANTED A JOB MAYBE AS AN IRON FITTER.

24 ARE YOU AWARE OF HIS ATTITUDE EVER CHANGING TOWARDS
25 MS. NEWTON BEING IN THAT TYPE OF ENVIRONMENT?

1 **A.** YEAH. I MEAN WHEN HE -- I MEAN, SO ORIGINALLY, YOU KNOW,
2 HE BRUSHED IT OFF AND WASN'T GOING TO GET HER A JOB AS AN IRON
3 WORKER.

4 BUT WHEN SHE STARTED OR HAD INTEREST IN DOING THE CLASSES,
5 YOU KNOW, I THINK HE WAS A LITTLE HESITANT, BUT HE WAS MORE ON
6 BOARD FOR IT AND ENCOURAGED HER TO DO IT BECAUSE THE MONEY
7 PAYS WELL.

8 **Q.** AT SOME POINT DID YOU BECOME AWARE THAT SHE GOT A JOB AT
9 THE SHELL REFINERY?

10 **A.** YES.

11 **Q.** HOW DID YOU BECOME AWARE OF IT?

12 **A.** I DON'T KNOW SPECIFICALLY, BUT IT WAS PROBABLY DURING ONE
13 OF OUR FAMILY NIGHTS TOGETHER WHEN SHE FOUND OUT SHE PASSED
14 AND GOT THE JOB.

15 **Q.** WHAT DO YOU RECALL ABOUT HER REACTION WHEN SHE FOUND OUT
16 ABOUT THAT?

17 **A.** SHE WAS EXCITED. SHE WAS KIND OF BRAGGING ABOUT IT TO US
18 AT THE HOUSE. SHE WAS JUST EXCITED FOR IT.

19 **Q.** AND WHAT ABOUT YOUR DAD; DID YOU NOTICE ANY REACTION HE
20 HAD TOWARDS THE BAD NEWS?

21 **A.** MY DAD WAS HAPPY FOR HER. I THINK HE WAS PROUD, YOU KNOW,
22 THAT SHE COMPLETED THE COURSE OR SHE GOT THE JOB, ONE OF --
23 HER BOYFRIEND HAD TRIED, TOO, AND DIDN'T GET IT, BUT CIARA
24 DID.

25 **Q.** AT THAT POINT WERE YOU STILL LIVING WITH YOUR PARENTS?

1 **A.** I WAS.

2 **Q.** AND WERE YOU LIVING THERE WHEN HE PASSED AWAY?

3 **A.** I WAS.

4 **Q.** WAS CIARA LIVING THERE?

5 **A.** NO, SHE WAS NOT.

6 **Q.** AFTER HE PASSED AWAY, DID SHE STAY OVER?

7 **A.** SHE DID.

8 **Q.** WHY?

9 **A.** TO HELP COMFORT MY MOM. AS I MENTIONED BEFORE, OUR DAD
10 WAS THE ROCK OF OUR FAMILY. HE WAS THE ONE THAT WAS REALLY
11 FAMILY ORIENTED. SO MY MOM WAS PRETTY UPSET AFTER HIS DEATH.
12 WE WERE -- WE DIDN'T WANT TO LEAVE HER ALONE, SO MY SISTER --
13 I THINK, JUST TO BE CLOSE TO COMFORT.

14 **Q.** I WANT TO TALK A LITTLE BIT ABOUT THE TIME WHEN YOUR
15 SISTER WORKED AT THE SHELL REFINERY. DID YOU EVER BECOME
16 AWARE OF ANYTHING THAT WAS HAPPENING THERE THAT SHE TOLD YOU
17 THAT CONCERNED HER?

18 **A.** YES.

19 **Q.** WHAT DID SHE TELL YOU?

20 **MR. LAFAYETTE:** OBJECTION, HEARSAY.

21 **THE COURT:** SUSTAINED.

22 **BY MS. NUGENT:**

23 **Q.** DID YOU EVER TELL YOUR SISTER -- OR GIVE YOUR SISTER ANY
24 ADVICE ABOUT ANYTHING THAT SHE SHARED WITH YOU?

25 **A.** I DID.

1 Q. WHAT ADVICE DID YOU GIVE HER?

2 A. WHEN... WHEN SHE FIRST STARTED TELLING ME ABOUT SOME OF
3 THE THINGS THAT WERE HAPPENING, MORE SO COMMENTS BEING MADE
4 TOWARDS HER, I THINK I JUST ADVISED HER TO MAKE SURE SHE WAS
5 TELLING SOMEONE ABOUT IT AT WORK.

6 AND THEN WITH THE STICKER INCIDENT, WHERE SHE FOUND THE
7 STICKER ON HER DESK, I TOLD HER SHE NEEDED TO TAKE A PHOTO OF
8 THAT AND WRITE A LETTER AND SUBMIT IT TO HER HR DEPARTMENT SO
9 THAT THERE WOULD BE DOCUMENTATION THAT, YOU KNOW, THAT THAT
10 WAS HAPPENING, THAT THEY WOULD HAVE DOCUMENTATION.

11 Q. AT SOME POINT DID YOU BECOME AWARE THAT SHE HAD BEEN FIRED
12 FROM SHELL?

13 A. YES.

14 Q. HOW DID YOU FIND OUT ABOUT THAT?

15 A. AGAIN, IN PERSON. I DON'T KNOW WHERE WE WERE. BUT IT
16 WOULD HAVE BEEN IN PERSON JUST HER TELLING ME.

17 Q. DID YOU OBSERVE HOW SHE -- ANY CHANGES IN HER AFTER SHE
18 HAD BEEN FIRED FROM SHELL?

19 A. YEAH. I'D SAY SHE WAS A LITTLE LESS CONFIDENT. HER
20 DEMEANOR HAD CHANGED A LITTLE. SHE --

21 Q. HOW HAD HER DEMEANOR CHANGED?

22 A. JUST WITH THE LACK OF CONFIDENCE. CIARA IS ALWAYS LIKE
23 JUST SUPER CONFIDENT. I DON'T KNOW HOW TO EXPRESS IT OTHER
24 THAN LIKE WHEN YOU SEE HER, YOU SEE THE CONFIDENCE IN HER.

25 BUT THEN AFTER THIS SHE WAS MORE LIKE RESERVED AND NOT...

1 NOT AS OPENLY CONFIDENT.

2 Q. DID YOU NOTICE ANYTHING ELSE?

3 A. I MEAN SHE WAS UPSET OBVIOUSLY. I FEEL LIKE SHE WAS A
4 LITTLE DEPRESSED, THAT CIARA -- WE DON'T, AS A FAMILY, WE
5 DON'T EXPRESS OUR EMOTIONS AS MUCH AS YOU WOULD THINK.

6 WHEN OUR DAD DIED, WE WEREN'T HOLDING EACH OTHER CRYING,
7 WE WERE ALL JUST TRYING TO BE STRONG AND NOT BE LESS SAD FOR
8 ONE ANOTHER.

9 SO DURING THIS TIME, I COULD SENSE THAT FROM HER EVEN IF
10 SHE WAS TRYING TO, YOU KNOW, BE STRONGER THAN HOW SHE WAS
11 FEELING.

12 AND SHE HAD LIKE ANXIETY WHEN WE WOULD GO TO FAMILY
13 FUNCTIONS OR LIKE A FRIEND'S WEDDING, COUSIN'S WEDDING BECAUSE
14 SHE DIDN'T WANT TO TELL PEOPLE THAT SHE WAS FIRED.

15 Q. DID SHE TELL YOU THAT, THAT SHE DIDN'T WANT TO TELL PEOPLE
16 SHE WAS FIRED?

17 MR. LAFAYETTE: OBJECTION, HEARSAY.

18 THE COURT: SUSTAINED.

19 BY MS. SMALLETS:

20 Q. HOW DID YOU KNOW THAT SHE WAS FEELING ANXIETY?

21 A. BECAUSE SHE WOULD EXPRESS BEFORE GOING TO THE WEDDING THAT
22 SHE DIDN'T WANT TO GO. SHE DIDN'T WANT TO DEAL -- BECAUSE
23 EVERYONE IN OUR FAMILY KNEW THAT SHE HAD GOTTEN THIS JOB. AND
24 SO THEY WOULD ASK, YOU KNOW, HOW'S WORK GOING, AND SHE DIDN'T
25 WANT TO ANSWER THOSE QUESTIONS.

1 Q. TO THIS DAY, HAVE YOU -- ARE YOU STILL OBSERVING ANY
2 CHANGES IN YOUR SISTER THAT ARE DIFFERENT FROM THE WAY THAT
3 SHE WAS BEFORE SHE WAS FIRED FROM SHELL?

4 A. YEAH. I MEAN, I WOULD SAY THAT IT'S DEFINITELY IMPACTED
5 HER JUST IN HOW SHE IS TODAY. I THINK IT'S KNOCKED HER DOWN A
6 LITTLE.

7 Q. WHAT DO YOU MEAN BY THAT?

8 A. I GUESS, AGAIN, I WOULD GO BACK TO THE CONFIDENCE. SHE IS
9 JUST MORE HESITANT. SHE'S NOT AS... SO SURE OF EVERYTHING.
10 IT KIND OF LIKE SHE DOUBTS HERSELF A LITTLE.

11 Q. ARE YOU AWARE OF ANY FINANCIAL IMPACTS THAT HER FIRING HAS
12 HAD ON HER?

13 A. YEAH. I MEAN SHE WAS OUT OF A JOB FOR A REALLY LONG TIME.
14 STRUGGLED, I THINK, WITH HER FINANCES. I MEAN, I DON'T KNOW
15 HER FINANCES EXACTLY, BUT SHE ALSO COULDN'T --

16 MR. LAFAYETTE: OBJECTION, HEARSAY, LACKING
17 FOUNDATION.

18 THE COURT: WE DON'T KNOW -- IT'S NOT HEARSAY, BUT I
19 DON'T KNOW WHAT FOUNDATION SHE HAS. SO LAY A FOUNDATION.

20 BY MS. NUGENT:

21 Q. HAS YOUR SISTER SHARED WITH YOU ANY OF THE WAYS THAT SHE
22 HAS BEEN IMPACTED FINANCIALLY BY LOSING HER JOB AND CAREER AT
23 SHELL?

24 A. AGAIN --

25 MR. LAFAYETTE: THAT'S HEARSAY.

1 **THE COURT:** THAT IS HEARSAY. SUSTAINED.

2 **BY MS. NUGENT:**

3 **Q.** DID YOU MOVE OUT OF THE HOME THAT YOU WERE LIVING IN WITH
4 YOUR MOM AFTER YOUR DAD'S DEATH?

5 **A.** I DID.

6 **Q.** WHY?

7 **A.** IT WAS TOO HARD TO BE AT THE HOUSE WITHOUT MY DAD THERE.

8 **MR. LAFAYETTE:** OBJECTION, RELEVANCE. MOVE TO
9 STRIKE.

10 **THE COURT:** I ASSUME THERE'S SOME REASON FOR THAT
11 QUESTION. IT DOESN'T SEEM RELEVANT.

12 **BY MS. NUGENT:**

13 **Q.** YOUR MOM -- DOES YOUR MOM STILL LIVE IN THAT HOUSE?

14 **A.** NO.

15 **Q.** HOW LONG HAD THEY LIVED THERE BEFORE YOU MOVED OUT?

16 **A.** WE MOVED THERE IN 2012.

17 **Q.** DO YOU LIVE WITH YOUR MOM NOW?

18 **A.** I DO NOT.

19 **Q.** DO YOU KNOW -- IS SHE LIVING WITH YOUR SISTER?

20 **A.** NO.

21 **MS. NUGENT:** I HAVE NOTHING FURTHER.

22 **THE COURT:** ALL RIGHT. ANY EXAM?

23 **MR. LAFAYETTE:** JUST A LITTLE BIT, YOUR HONOR.

24

25

CROSS-EXAMINATION

BY MR. LAFAYETTE:

Q. GOOD AFTERNOON.

A. HELLO.

Q. DO YOU WORK IN HUMAN RESOURCES?

A. I DO.

Q. WERE YOU WORKING IN HUMAN RESOURCES IN 2016?

A. I WAS.

Q. AND AS A PERSON IN HUMAN RESOURCES, WERE YOU A RESOURCE TO YOUR SISTER WHILE SHE WAS WORKING AT THE REFINERY?

A. NOT AS A HUMAN RESOURCE.

Q. NOT AS A HUMAN RESOURCE, BUT YOU DID ANSWER AND PROVIDED -- YOU PROVIDED ADVICE TO HER, RIGHT?

A. I DID.

Q. DID YOU AT ANY POINT IN TIME TELL HER THAT IF SHE THOUGHT SOMETHING WAS GOING ON SHE NEEDED TO DOCUMENT IT?

A. YES.

Q. DID YOU TELL HER THAT IF YOU THOUGHT THAT THERE WERE PEOPLE DOING STUFF TO HER, THAT SHE NEEDED TO WRITE THAT DOWN?

A. I DID AFTER THE STICKER INCIDENT.

Q. HAD YOU TOLD HER AT ANY POINT IN TIME BEFORE THAT, THAT IF THERE WAS SOMETHING GOING ON, SHE NEEDED TO DOCUMENT IT?

A. I DIDN'T TELL HER TO DOCUMENT ANYTHING. I TOLD HER SHE NEEDED TO SPEAK UP AND SAY SOMETHING.

Q. SPEAK UP AND SAY SOMETHING.

1 SHE NEEDED TO SPEAK UP TO WHO?

2 **A.** EITHER -- WELL, HER SUPERVISOR, SOMEONE IN A MANAGER
3 AUTHORITY.

4 **Q.** SO YOU TOLD HER THAT SHE NEEDED TO CONTACT SOMEONE IN THE
5 MANAGEMENT STREAM AND TELL THEM SOMETHING WAS GOING ON,
6 CORRECT?

7 **A.** CORRECT.

8 **Q.** YOU TOLD HER THAT IF THERE WAS A HUMAN RESOURCES
9 DEPARTMENT, SHE NEEDED TO REACH OUT TO THEM, DIDN'T YOU?

10 **A.** CORRECT.

11 **Q.** YOU TOLD HER THAT IF THERE WAS SOME TYPE OF HELP LINE OR
12 SOMETHING, SHE NEEDED TO CALL THAT, RIGHT?

13 **A.** NO.

14 **Q.** YOU DIDN'T TELL HER THAT?

15 **A.** NO.

16 **Q.** OKAY. BUT YOU TOLD HER THE OTHER TWO THINGS?

17 **A.** YES.

18 **Q.** OKAY. AND DID SHE EVER -- ALL RIGHT.

19 AND WHEN YOU TOLD HER THAT SHE NEEDED TO WRITE A LETTER
20 ABOUT THE STICKER, WHAT DID YOU MEAN?

21 **A.** I MEANT THAT SHE NEEDED TO WRITE A LETTER AND TURN IT INTO
22 THE HUMAN RESOURCE DEPARTMENT SO THEY CAN INVESTIGATE IT.

23 **MR. LAFAYETTE:** OKAY. NO FURTHER QUESTIONS, YOUR
24 HONOR.

25 **THE COURT:** ANYTHING ON THOSE QUESTIONS?

1 **MS. NUGENT:** NO, YOUR HONOR.

2 **THE COURT:** ALL RIGHT, MS. NEWTON, BECAUSE I CAN'T
3 REMEMBER YOUR MIDDLE NAME WHICH LOOKED VERY LONG, YOU ARE
4 EXCUSED. THANK YOU.

5 **THE WITNESS:** THANK YOU.

6 **THE COURT:** YOU'RE WELCOME TO SAY IN THE COURTROOM AT
7 THIS POINT IF YOU'D LIKE.

8 MS. NEWTON, IF YOU WILL COME BACK TO THE STAND WE WILL
9 FINISH THE DAY.

10 **CROSS-EXAMINATION RESUMED**

11 **BY MR. LAFAYETTE:**

12 **Q.** YOU MENTIONED A PERSON NAME IAN CHAMBERLAIN?

13 **A.** YES.

14 **Q.** AND THIS IS WHEN HE SAW YOU OUTSIDE WITHOUT THE GOGGLES ON
15 YOUR HELMET AND WITHOUT A RADIO, RIGHT?

16 **A.** RIGHT.

17 **Q.** AND YOU DIDN'T HAVE THOSE TWO ITEMS WITH YOU, DID YOU?

18 **A.** NO.

19 **Q.** AND WAS THERE ANYBODY ELSE PRESENT --

20 **A.** YES.

21 **Q.** -- WHEN THIS CONVERSATION TOOK PLACE?

22 **A.** YES.

23 **Q.** WHO?

24 **A.** CHRIS SALAS, MY TRAINER.

25 **Q.** WAS THERE ANYBODY ELSE PRESENT?

1 SOMEONE NAMED ASHTON?

2 **A.** NO, HE WASN'T THERE WHEN IAN MADE THOSE COMMENTS.

3 **Q.** HE WASN'T AROUND?

4 **A.** HE WAS THERE WHEN I SAID MY GOGGLES WERE BROKEN, BUT HE
5 WASN'T WITH US WHEN IAN APPROACHED US.

6 **Q.** NOW, WHEN HE SAID SOMETHING TO YOU, HAD YOU SAID ANYTHING
7 TO HIM BEFORE THAT?

8 **A.** NO.

9 **Q.** SO HE WALKED STRAIGHT UP TO YOU, RIGHT?

10 **A.** RIGHT.

11 **Q.** AND HE WALKED UP TO YOU AND HE DIDN'T SEE THE GOGGLES OR
12 THE RADIO, RIGHT?

13 **A.** CORRECT.

14 **Q.** THAT'S WHEN HE STARTED TALKING, RIGHT?

15 **A.** RIGHT.

16 **Q.** TO THE EXTENT YOU HAD AN EXPLANATION FOR WHY YOU DIDN'T
17 HAVE THOSE THINGS WITH YOU, HE SPOKE BEFORE YOU EVER GAVE THE
18 EXPLANATION, DIDN'T HE?

19 **A.** CORRECT.

20 **Q.** ARE THE GOGGLES SOMETHING THAT ARE THERE AS A SAFETY
21 MECHANISM?

22 **A.** YES.

23 **Q.** OKAY. PROTECT YOUR EYES, RIGHT?

24 **A.** CORRECT.

25 **Q.** BECAUSE YOU NEVER KNOW IN A REFINERY WHEN SOMETHING MIGHT

1 HAPPEN AND YOU MAY NEED EYE PROTECTION, CORRECT?

2 A. CORRECT.

3 Q. AND THE RADIO IS THERE FOR A VERY SERIOUS REASON, ISN'T
4 IT?

5 A. COMMUNICATION.

6 Q. NOT JUST COMMUNICATION; IF SOMETHING HAPPENS TO YOU IN
7 THAT REFINERY, IT'S YOUR LIFE LINE, ISN'T IT?

8 A. YES, TO COMMUNICATE FOR HELP.

9 Q. IT'S WHAT YOU ARE GOING TO USE TO SAY, HEY, I GOT A
10 PROBLEM AND I NEED SOME HELP. RIGHT?

11 A. CORRECT.

12 Q. LIKewise, IF YOU ARE IN THE REFINERY AND SOMEBODY ELSE
13 NEEDS HELP, THAT'S THEIR WAY TO COMMUNICATE WITH YOU TO GET
14 HELP, ISN'T IT?

15 A. CORRECT.

16 Q. AND IF THERE IS SOMETHING THAT IS HAPPENING IN THE
17 REFINERY THAT'S DANGEROUS, THAT'S HOW PEOPLE CAN LET YOU KNOW
18 THAT THAT'S GOING ON, RIGHT?

19 A. RIGHT.

20 Q. SO IT IS IMPORTANT FOR TO YOU HAVE THOSE ITEMS WITH YOU IN
21 THE REFINERY, ISN'T IT?

22 A. IT IS IMPORTANT.

23 Q. AND AS A NEW PERSON, AS A PERSON WHO IS ON PROBATION, IT'S
24 IMPORTANT FOR THOSE WHO HAVE BEEN THERE FOR A WHILE TO LET
25 THEM KNOW THAT THEY NEED TO TAKE THE SAFETY ITEMS SERIOUSLY

1 AND TO USE THEM AND CARRY THEM WITH THEM; IT IS IMPORTANT FOR
2 THEM TO DO THAT, ISN'T IT?

3 A. YES.

4 Q. NOW OTHER THAN THAT ONE-OFF CONVERSATION THAT YOU HAD WITH
5 IAN CHAMBERLAIN, DID YOU EVER HAVE ANY OTHER CONVERSATIONS
6 WITH HIM?

7 A. JUST AFTER WHEN I WENT TO CLARIFY WITH HIM WHY WE DIDN'T
8 HAVE THE GOGGLES, AND WE WERE ON OUR WAY TO GET THE GOGGLES,
9 OTHER THAN THAT, NO FORMAL CONVERSATION.

10 Q. YOU DON'T KNOW TOO MUCH ABOUT HIM EITHER, DO YOU?

11 A. JUST WHAT I'VE SEEN AT WORK.

12 Q. OKAY. AND YOU DON'T PERSONALLY KNOW CHRISTINE LAYNE, DO
13 YOU?

14 A. NO.

15 Q. AND YOU DON'T KNOW OF HER TO HAVE A BIAS AGAINST WOMEN, DO
16 YOU?

17 A. NO.

18 Q. NOW YOU ARE AWARE OF ALL THE THINGS IN YOUR PD LOG, AREN'T
19 YOU?

20 A. YES.

21 Q. AS OF THE DATE THAT YOU WERE TOLD THAT YOU WERE BEING
22 TERMINATED, YOU WERE AWARE OF ALL THE THINGS IN YOUR PD LOG,
23 WEREN'T YOU?

24 A. I BELIEVE SO. I DON'T HAVE IT HERE ANYMORE, BUT I THINK
25 EVERYTHING IN THERE I WAS AWARE OF.

1 Q. ALL RIGHT.

2 AND THE ITEMS IN YOUR PD LOG HAD BEEN COVERED WITH YOU IN
3 AT LEAST ONE OF THOSE MEETINGS WHEN CHRISTINE LAYNE WAS
4 PRESENT, RIGHT?

5 A. YES, I BELIEVE SO.

6 Q. OKAY.

7 AND ISN'T IT YOUR BELIEF THAT IF SHE BELIEVED ALL THOSE
8 ITEMS WERE TRUE, THERE WOULD BE JUSTIFICATION FOR HER MAKING
9 THE DECISION TO LET YOU GO.

10 A. IS IT MY BELIEF?

11 Q. THAT IF SHE BELIEVED THAT ALL THOSE ITEMS WERE TRUE, THAT
12 THAT WOULD BE A JUSTIFICATION FOR LETTING YOU GO.

13 A. I UNDERSTAND THAT WAS PROBABLY HER JUSTIFICATION. IS THAT
14 WHAT YOU ARE ASKING ME?

15 Q. NO.

16 A. YOU ARE ASKING MY BELIEF, IF THAT WOULD BE A
17 JUSTIFICATION?

18 Q. IF SHE BELIEVED, IF SHE BELIEVED THAT THOSE ITEMS WERE
19 TRUE --

20 A. I DON'T KNOW --

21 Q. THAT WOULD BE JUSTIFICATION --

22 A. IF SHE BELIEVED THEY WERE TRUE, THAT WOULD BE UP TO HER.

23 MR. LAFAYETTE: I WOULD LIKE TO READ THE WITNESS'S
24 DEPOSITION TRANSCRIPT AT PAGE 629 --

25 THE COURT: 69?

1 **MR. LAFAYETTE:** SIX TO NINE, YOUR HONOR, LINES 8
2 THROUGH 11.

3 **THE COURT:** GO AHEAD.

4 **MR. LAFAYETTE:** (READING)

5 "QUESTION: AND IF SHE HAD, AND IF SHE BELIEVED THAT
6 THESE WERE TRUE, WOULDN'T THESE BE JUSTIFICATIONS FOR
7 LETTING YOU GO?

8 "ANSWER: YES."

9 **BY MR. LAFAYETTE:**

10 **Q.** I'LL TALK ABOUT THE DRAEGER TUBE WITH YOU.

11 **A.** OKAY.

12 **Q.** NOW THE DRAEGER TUBE IS A GLASS CYLINDER, RIGHT, THE TUBE
13 ITSELF?

14 **A.** YES.

15 **Q.** AND WHEN YOU GO TO GET ONE, DO THEY COME IN A BOX?

16 **A.** WHEN YOU OPEN UP A BRAND NEW PACK, THEY ARE IN A BOX.

17 **Q.** OKAY. AND EACH INDIVIDUAL ONE, EACH INDIVIDUAL DRAEGER
18 TUBE IS IN ITS OWN BOX, ISN'T IT?

19 **A.** NO. THERE'S ABOUT LIKE 25 IN A BOX.

20 **Q.** AND ARE THEY ENCASED IN ANYTHING?

21 **A.** NO.

22 **Q.** THEY ARE NOT IN PAPER, JUST --

23 (SIMULTANEOUS COLLOQUY)

24 **A.** JUST THE -- SORRY.

25 **Q.** THAT'S ALL RIGHT.

1 JUST A BUNCH OF GLASS TUBES AND ONE BOX AND NOT SEPARATED
2 BY ANYTHING?

3 **A.** YEAH. A SMALL BOX LIKE THIS (INDICATING) AND THE
4 CYLINDERS ARE INSIDE. THEY ARE NOT SEPARATED BY ANYTHING.

5 **Q.** OKAY.

6 AND SO HELP ME IF I THINK I UNDERSTAND THIS RIGHT. I
7 DON'T WANT TO BREAK MY PENCIL, BUT YOU TAKE THE DRAEGER TUBE,
8 AND IT'S GOT TWO GLASS ENDS ON IT, RIGHT?

9 **A.** RIGHT.

10 **Q.** YOU BREAK OFF ONE END AND THEN YOU BREAK OFF THE OTHER
11 END, RIGHT?

12 **A.** RIGHT.

13 **Q.** THEN YOU TAKE THAT THING WITH THE TWO ENDS BROKEN OFF OF
14 IT, AND YOU STICK IT INSIDE OF A PUMP, RIGHT?

15 **A.** YOU STICK THE WRITING PORTION OF THE PEN INSIDE THE PUMP,
16 BUT NOT THE WHOLE THING.

17 **Q.** THAT'S RIGHT. AND THEN YOU ARE SUPPOSED TO DRAW
18 SOMETHING, YOU'RE DRAWING SOMETHING, SOME GAS INTO IT, RIGHT?

19 **A.** RIGHT.

20 **Q.** AND THEN YOU'RE LOOKING TO SEE WHAT HAPPENS WITH THE TUBE,
21 RIGHT?

22 **A.** CORRECT.

23 **Q.** OKAY. BUT THE FIRST THING YOU DO IS BREAK BOTH ENDS OFF,
24 RIGHT?

25 **A.** YES.

1 Q. NOW -- AND WHAT WERE YOU TESTING FOR?

2 A. WE WERE TESTING FOR H2S.

3 Q. H2 WHAT?

4 A. S.

5 Q. WHICH IS WHAT?

6 A. HYDROGEN SULFIDE?

7 Q. IS THERE A RISK IN USING SOMETHING OTHER THAN A PRISTINE
8 DRAEGER TUBE?

9 A. WHAT DO YOU MEAN BY "PRISTINE"? LIKE NEW?

10 Q. I'M SAYING ONE WHERE NONE OF THE ENDS HAVE BEEN BROKEN OFF
11 OF IT.

12 A. IS THERE A RISK? NOT THAT I WAS -- AM AWARE OF.

13 Q. OKAY.

14 LET'S TALK ABOUT IT FOR A SECOND. THE ONE THAT YOU USED,
15 ONE OF THE ENDS WAS ALREADY BROKEN OFF, RIGHT?

16 A. CORRECT.

17 Q. DO YOU KNOW WHO BROKE IT OFF?

18 A. NO.

19 Q. DO YOU KNOW WHY THEY BROKE IT OFF IN?

20 A. NO.

21 Q. DO YOU KNOW IF THEY DISCARDED IT BECAUSE THEY THOUGHT THAT
22 SOMETHING WAS WRONG WITH IT?

23 A. NO, IT WASN'T DISCARDED.

24 Q. DO YOU KNOW THAT THEY DIDN'T USE IT BECAUSE THEY THOUGHT
25 SOMETHING WAS WRONG WITH IT?

1 **A.** NO, I DO NOT.

2 **Q.** SO YOU DON'T KNOW ANYTHING ABOUT WHAT ALL HAD HAPPENED
3 WITH THIS DRAEGER TUBE BEFORE YOU GOT IT, RIGHT?

4 **A.** THIS DRAEGER TUBE WAS JUST WHERE I WAS SHOWN TO GET EXTRA
5 DRAEGER TUBES.

6 **Q.** YOU DON'T KNOW WHAT ALL HAPPENED TO IT, DO YOU?

7 **A.** NO.

8 **Q.** NOW ONCE YOU GOT A DRAEGER TUBE LIKE THAT, LET'S ASSUME
9 YOU COULDN'T FIND ANOTHER ONE, YOU HAD SOME OPTIONS AVAILABLE
10 TO YOU BEFORE YOU JUST TRIED TO USE IT, DIDN'T YOU?

11 **A.** IF I COULDN'T FIND ANOTHER ONE, DID I HAVE MORE OPTIONS?

12 **Q.** YOU HAD SOME OPTIONS, RIGHT?

13 **A.** YES.

14 **Q.** ONE IS YOU COULD HAVE CALLED SOMEONE AND ASKED THEM SHOULD
15 YOU CONTINUE TO USE THIS DRAEGER TUBE THAT ALREADY HAS AN END
16 BROKE OFF, RIGHT? THAT'S ONE OF THE THINGS YOU COULD HAVE
17 DONE, RIGHT?

18 **A.** IF WHAT?

19 **Q.** YOU COULD HAVE CALLED SOMEONE AND ASKED THEM IF IT WAS ALL
20 RIGHT TO USE THAT DRAEGER TUBE LIKE THAT, RIGHT?

21 **A.** WELL, MY TRAINER HAD ALREADY TOLD ME THAT IT WAS OKAY,
22 CHRIS SALAS IN PARALLEL TRAINING, BUT I....

23 **MR. LAFAYETTE:** I WOULD LIKE TO READ FROM THE
24 WITNESS'S DEPOSITION TRANSCRIPT PAGE 799, LINE 9 THROUGH 15.

25 **MS. SMALLETS:** WHAT PAGE?

1 **THE COURT:** I DON'T HAVE --

2 **MR. LAFAYETTE:** I'M SORRY, YOUR HONOR, 277. I
3 APOLOGIZE.

4 (PAUSE IN THE PROCEEDINGS.)

5 **MR. LAFAYETTE:** LINES 9 THROUGH 15.

6 **THE COURT:** GO AHEAD.

7 **MR. LAFAYETTE:** (READING)

8 "QUESTION: SO ONCE YOU GET TO THIS DRAEGER TUBE AND
9 YOU SEE THAT THE TOP IS BROKEN OFF ALREADY, OKAY, YOU
10 HAVE SOME OPTIONS, RIGHT?

11 "ANSWER: RIGHT.

12 "ONE IS YOU COULD CALL SOMEONE AND ASK THEM SHOULD
13 YOU CONTINUE TO USE IT.

14 "ANSWER: RIGHT."

15 **BY MR. LAFAYETTE:**

16 **Q.** YOU HAD SOME OTHER OPTIONS, DIDN'T YOU?

17 **THE COURT:** THAT'S A QUESTION?

18 **MR. LAFAYETTE:** I'M ASKING HER, YES, YOUR HONOR,
19 THAT'S A QUESTION.

20 **THE WITNESS:** YES.

21 **BY MR. LAFAYETTE:**

22 **Q.** ONE IS THAT YOU COULD HAVE JUST USED IT BROKEN AS IT WAS,
23 RIGHT?

24 **A.** RIGHT.

25 **Q.** ANOTHER OPTION WOULD BE TO NOT TAKE THE TEST AT THAT TIME,

1 RIGHT?

2 **A.** IF I THOUGHT THERE WAS A PROBLEM WITH THE DRAEGER TUBE
3 THAT WOULD BE AN OPTION.

4 **Q.** NO. IF THAT DRAEGER TUBE WAS IN THE CONDITION IT WAS IN,
5 ONE OF THE OPTIONS YOU COULD HAVE USED WAS NOT TO HAVE USED
6 THAT DRAEGER TUBE AT ALL, RIGHT?

7 **A.** RIGHT.

8 **Q.** NOW... AND WITH REGARD TO THAT LAST OPTION WE JUST
9 DISCUSSED, THERE WAS NOTHING WRONG WITH THAT OPTION, WAS
10 THERE?

11 **A.** WITH NOT USING IT?

12 **Q.** YES.

13 **A.** NO.

14 **Q.** AND... BUT IF YOU USED IT, YOU UNDERSTOOD THAT YOU RAN THE
15 RISK OF GETTING A FALSE READING, DIDN'T YOU?

16 **A.** NO, I DIDN'T.

17 **MR. LAFAYETTE:** I WOULD LIKE TO READ FROM THE
18 WITNESS'S DEPOSITION TESTIMONY. PAGE 278, LINES 11 -- STRIKE
19 THAT, YOUR HONOR.

20 **BY MR. LAFAYETTE:**

21 **Q.** SO NOW... SO WITH REGARD TO THIS -- THIS DRAEGER TUBE, IT
22 IS IMPORTANT THAT YOU GET THE TEST RIGHT, ISN'T IT?

23 **A.** YES.

24 **Q.** AND IF YOU CAN'T VALIDATE THE TEST RESULTS, THEN YOU'RE
25 GETTING A BAD RESULT, AREN'T YOU?

1 **A.** IF YOU CAN'T VALIDATE THE TEST RESULT, THEN IT IS A BAD
2 RESULT?

3 **Q.** YES.

4 **A.** YES.

5 **Q.** NOW, WHEN YOU USED THE DRAEGER TUBE, DO YOU RECORD YOUR
6 FINDINGS?

7 **A.** YES.

8 **Q.** DO YOU RECORD THE FINDINGS IN THE INTELLITRAK MACHINE?

9 **A.** YES.

10 **Q.** SO ON THAT NIGHT, DID YOU HAVE THE INTELLITRAK MACHINE
11 WITH YOU?

12 **A.** I BELIEVE I DID.

13 **Q.** AND THAT NIGHT YOU ENTERED A FINDING INTO THE INTELLITRAK
14 MACHINE, DIDN'T YOU?

15 **A.** YES.

16 **Q.** AND IT WAS AFTER YOU ENTERED THAT FINDING IN THE
17 INTELLITRAK MACHINE THAT CAMERON CURRAN CAME AROUND, WASN'T
18 IT?

19 **A.** YES.

20 **Q.** AND SO AT THAT POINT IN TIME YOU HAD ENTERED A FINDING IN
21 THE INTELLITRAK MACHINE WITH THE DRAEGER TUBE THAT YOU KNEW
22 WHEN YOU FIRST PICKED IT UP WASN'T PRISTINE, CORRECT?

23 **A.** IT WASN'T --

24 **Q.** PRISTINE.

25 **A.** PRISTINE?

1 Q. YES.

2 A. MEANING IT WAS BROKEN ON ONE END, YES.

3 Q. YES. OKAY.

4 AND WHEN HE ASKED YOU WHERE WAS THE DRAEGER TUBE THAT YOU
5 HAD USED, DID YOU GIVE HIM ONE?

6 A. NO. I SHOWED HIM WHERE IT WAS. I DIDN'T -- THOSE ARE
7 THINGS THAT YOU DON'T KEEP.

8 Q. SO YOU DIDN'T GIVE HIM THE DRAEGER TUBE THAT YOU HAD USED?

9 A. NO.

10 Q. DID YOU POINT HIM TO THE DRAEGER TUBE SO THAT HE COULD SEE
11 IT FOR HIMSELF?

12 A. NO. I SHOWED HIM -- THERE'S A GARBAGE FULL OF HUNDRED
13 DRAEGER TUBES, SO IT WOULD BE HAVE BEEN IMPOSSIBLE, BUT I
14 SHOWED HIM WHERE I FOUND THE DRAEGER TUBE.

15 Q. WHERE YOU PUT IT?

16 A. I NEVER SHOWED HIM --

17 Q. I'M ASKING YOU, THE DRAEGER TUBE THAT YOU USED, DID YOU
18 EVER SHOW HIM THE DRAEGER TUBE THAT YOU ACTUALLY USED?

19 A. I DON'T BELIEVE I DID.

20 MR. LAFAYETTE: I THINK I'M AT THE MARK.

21 THE COURT: WE STARTED FIVE MINUTES LATE SO YOU GET
22 FIVE MORE MINUTES.

23 MR. LAFAYETTE: THANK YOU.

24 BY MR. LAFAYETTE:

25 Q. YOU REALIZE BY USING THAT LESS-THAN-PRISTINE DRAEGER TUBE,

1 THAT YOU RAN THE RISK OF GETTING A WRONG READING.

2 **A.** ARE YOU ASKING ME A QUESTION?

3 **Q.** YES.

4 DID YOU UNDERSTAND THAT BY USING THAT LESS-THAN-PRISTINE
5 DRAEGER TUBE THAT YOU RAN THE RISK OF GETTING A WRONG READING?

6 **A.** I THOUGHT IT WAS OKAY TO USE THE USED DRAEGER TUBE AS I
7 HAD SEEN OTHER PEOPLE DO IT.

8 **MR. LAFAYETTE:** OBJECTION. I'M SORRY, YOUR HONOR.

9 GO AHEAD.

10 **THE WITNESS:** SINCE TYPICALLY YOU DON'T GET A READING
11 USUALLY IT IS 0 H2S, AND THAT DAY I DID GET A READING AND THAT
12 WAS UNUSUAL, I THOUGHT MY PLAN WAS TO GO BACK AND FIND OUT
13 WHERE WE GET A BRAND NEW BOX SINCE THE BOX THAT I FOUND WAS
14 ALREADY OPENED, WHERE TO GET A NEW BOX. AND WHEN I COMPLETE
15 MY ROUNDS, TAKE ANOTHER TEST. NOT BECAUSE I HAD USED A BROKEN
16 DRAEGER TUBE, BUT BECAUSE I HAD A READING AND I WANTED TO MAKE
17 SURE THAT READING WAS ACCURATE.

18 **MR. LAFAYETTE:** I WOULD LIKE TO READ FROM THE
19 WITNESS'S DEPOSITION TRANSCRIPT, PAGE 496:17 THROUGH --

20 **THE COURT:** FOUR WHAT?

21 **MR. LAFAYETTE:** 496:17 THROUGH 497:2.

22 **THE COURT:** DENIED. THESE ARE SLIGHTLY DIFFERENT
23 EXAMINATIONS.

24 **BY MR. LAFAYETTE:**

25 **Q.** DID YOU REALIZE THAT YOU COULD POSSIBLY GET A READING THAT

1 WAS WRONG BY USING LESS THAN A PRISTINE DRAEGER TUBE?

2 **A.** I DON'T THINK THAT I DID. I --

3 **MR. LAFAYETTE:** NOW I WOULD LIKE TO READ THE
4 TESTIMONY.

5 **THE COURT:** GO AHEAD.

6 **MR. LAFAYETTE:** (READING)

7 "QUESTION: DID YOU REALIZE THAT YOU COULD POSSIBLY
8 GET A READING BUT IT COULD BE WRONG?

9 "ANSWER: YES."

10 "OKAY. I JUST WANT TO MAKE SURE WE ARE CLEAR ABOUT
11 THAT. JUST BECAUSE YOU GET A READING DOESN'T REALLY
12 MEAN ANYTHING, DOES IT?

13 "ANSWER: NO.

14 "THE ONLY READING THAT MAKES ANY SENSE IS ONE THAT'S
15 RIGHT, CORRECT?

16 "ANSWER: CORRECT."

17 **THE WITNESS:** SO --

18 **MR. LAFAYETTE:** I WON'T EAT ANY MINUTES, YOUR HONOR.
19 OKAY?

20 **THE WITNESS:** SO I JUST UNDERSTOOD ALSO --

21 **MR. LAFAYETTE:** YOUR HONOR, THERE IS NO QUESTION
22 PENDING.

23 **THE WITNESS:** OKAY.

24 **BY MR. LAFAYETTE:**

25 **Q.** WHILE YOU WERE AT SHELL, DID YOU TAKE ANY MEDICATION FOR

1 ANY EMOTIONAL-RELATED ISSUES?

2 **A.** NO.

3 **Q.** AND SINCE YOU'VE LEFT SHELL, YOU HAVE NOT TREATED WITH ANY
4 DOCTORS FOR ANY EMOTIONAL-RELATED ISSUES, HAVE YOU?

5 **A.** NO.

6 **Q.** WHILE YOU WERE AT SHELL, YOU DIDN'T TREAT WITH ANY DOCTORS
7 FOR ANY EMOTIONAL-RELATED ISSUES, HAVE YOU?

8 **A.** NO.

9 **Q.** AND SINCE YOU'VE LEFT SHELL, YOU HAVE NOT TAKEN ANY
10 MEDICATION FOR ANY EMOTIONAL-RELATED ISSUES, HAVE YOU?

11 **A.** NO.

12 **MR. LAFAYETTE:** I THINK I'M THERE, YOUR HONOR.

13 **THE COURT:** ALL RIGHT.

14 OKAY, LADIES AND GENTLEMEN, WE ARE DONE FOR THE DAY. ANY
15 QUESTIONS?

16 YES.

17 **JUROR:** WOULD IT BE POSSIBLE TO BE REMINDED WHAT THE
18 CLAIMS ARE THAT WE ARE TRYING TO LISTEN FOR? WHAT ARE THE
19 CLAIMS?

20 **THE COURT:** SO THE ANSWER TO THAT QUESTION RIGHT NOW
21 IS NO. JUST LISTEN TO THE FACTS, LISTEN TO THE TESTIMONY.

22 THIS IS A COMPLICATED CASE. THERE ARE ACTUALLY FIVE
23 DIFFERENT CLAIMS, AND EACH CLAIM HAS MANY DIFFERENT ELEMENTS.

24 SO YOU WILL BE GIVEN INSTRUCTIONS. AND THE WAY I DO IT,
25 THE INSTRUCTIONS I GIVE YOU ARE ACTUALLY -- YOU WILL GET A

1 WRITTEN COPY, AND EACH CLAIM WILL HAVE EACH SET OF ELEMENTS.

2 WE ARE REQUIRED UNDER THE LAW TO ORALLY GIVE THEM TO YOU,
3 BUT THERE IS ABSOLUTELY NO WAY THAT YOU ARE GOING TO REMEMBER
4 EVERYTHING I SAY WITHOUT A WRITTEN COPY.

5 SO WHAT YOU HAVE TO DO NOW IS JUST LISTEN TO THE TESTIMONY
6 AND GATHER THE FACTS, AND THEN AT THE END, I'LL NOT ONLY
7 ORALLY, I WILL PROVIDE YOU WRITTEN COPIES WITH EACH CLAIM WITH
8 EACH ELEMENT.

9 OKAY?

10 ANYTHING ELSE? ALL RIGHT. WE WILL SEE YOU TOMORROW.

11 8:00 A.M. REMEMBER MY DO NOTS.

12 **JUROR:** 8:30.

13 **THE CLERK:** 8:30.

14 **THE COURT:** WHAT DID I SAY?

15 **THE CLERK:** YOU SAID 8:00.

16 I WILL BE HERE, BUT I WILL SEE YOU AT 8:30, YES.

17 (PROCEEDINGS HELD OUTSIDE THE PRESENCE OF THE JURY.)

18 **THE COURT:** THE RECORD WILL REFLECT THAT THE JURY IS
19 GONE.

20 YOU MAY STEP DOWN, MS. NEWTON.

21 ANYTHING -- SO I'M STILL MISSING DEFENDANT'S EXHIBITS.

22 **MR. LAFAYETTE:** YOUR HONOR?

23 (EXHIBITS HANDED TO COURT.)

24 **THE COURT:** THANK YOU.

25 GIVEN THAT WE ANTICIPATE THE PLAINTIFF'S CLOSING TOMORROW

1 DO I ALSO ANTICIPATE GETTING SOME MOTION FROM THE DEFENSE?

2 MR. LAFAYETTE: YES, YOUR HONOR.

3 THE COURT: ALL RIGHT. I DO NOT LOSE TRIAL TIME.
4 ONCE WE CLOSE, I WILL MAKE A NOTE IN THE RECORD THAT ANY
5 ANTICIPATED MOTION WILL BE DEEMED TIMELY AND WE KEEP GOING
6 WITH EVIDENCE. OKAY?

7 MS. SMALLETS: YOUR HONOR, I ACTUALLY DON'T THINK WE
8 WILL CLOSE TOMORROW BASED ON THE TIMES TODAY. IT WILL
9 PROBABLY BE FRIDAY.

10 THE COURT: OKAY. FRIDAY IN THE MORNING.

11 MS. SMALLETS: YES.

12 THE COURT: IN ANY EVENT, WE'RE JUST GOING TO KEEP
13 MOVING WITH THE TRIAL TIME.

14 MR. LAFAYETTE: I APPRECIATE THAT.

15 THE COURT: AND BOTH SIDES KNOW IT WILL BE DEEMED TIMELY
16 FOR PURPOSES OF THE CODE, BUT WE WILL KEEP MOVING.

17 MR. LAFAYETTE: THAT'S FINE, YOUR HONOR.

18 THE COURT: WE WILL SEE YOU ALL -- WE WILL SEE YOU AT
19 8:00 A.M.

20 MS. SMALLETS: YOU WANT TO TALK ABOUT THE UNION
21 CONTRACT EXHIBIT --

22 MR. LAFAYETTE: LET'S TALK ABOUT IT TONIGHT.

23 MS. SMALLETS: OKAY.

24 THE COURT: ALL RIGHT. LET ME KNOW IN THE MORNING.

25 MR. LAFAYETTE: THANK YOU, YOUR HONOR.

1 **MS. SMALLETS:** THANK YOU, YOUR HONOR.

2 (PROCEEDINGS ADJOURNED AT 1:37 P.M.)

3
4 **CERTIFICATE OF REPORTER**

5 I, DIANE E. SKILLMAN, OFFICIAL REPORTER FOR THE
6 UNITED STATES COURT, NORTHERN DISTRICT OF CALIFORNIA, HEREBY
7 CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE
8 RECORD OF PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

9
10 

11 DIANE E. SKILLMAN, CSR 4909, RPR, FCRR

12 WEDNESDAY, DECEMBER 12, 2018
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